

13 March 2019

Committee	Licensing
Date	Thursday, 21 March 2019
Time of Meeting	2:30 pm
Venue	Tewkesbury Borough Council Offices, Severn Room

ALL MEMBERS OF THE COMMITTEE ARE REQUESTED TO ATTEND

Agenda

1. ANNOUNCEMENTS

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the visitors' car park at the front of the building and await further instructions (during office hours staff should proceed to their usual assembly point; outside of office hours proceed to the visitors' car park). Please do not re-enter the building unless instructed to do so.

In the event of a fire any person with a disability should be assisted in leaving the building.

2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

To receive apologies for absence and advise of any substitutions.

3. DECLARATIONS OF INTEREST

Pursuant to the adoption by the Council on 26 June 2012 of the Tewkesbury Borough Council Code of Conduct, effective from 1 July 2012, as set out in Minute No. CL.34, Members are invited to declare any interest they may have in the business set out on the Agenda to which the approved Code applies.



	Item	Page(s)
4.	MINUTES To approve the Minutes of the meeting held on 18 October 2018.	1 - 7
5.	REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE POLICY To approve the draft revised Hackney Carriage and Private Hire Policy for public consultation following the Working Group's review.	8 - 80
6.	REVIEW OF STREET TRADING POLICY To approve the revised Street Trading Policy following public consultation.	81 - 112
7.	GAMBLING ACT 2005 STATEMENT OF PRINCIPLES To approve the publishing of the Tewkesbury Borough Council Gambling Act 2005 Statement of Principles 2019-22.	113 - 134
8.	LICENSING GENERAL UPDATE To consider the updates in respect of the changes to the Houses in Multiple Occupation regime and implementation of the Animal Welfare Regulations.	135 - 138
9.	LICENSING AUDIT ACTION PLAN To consider the progress made against the action plan arising from the Licensing audit.	139 - 150

DATE OF NEXT MEETING
THURSDAY, 13 JUNE 2019

COUNCILLORS CONSTITUTING COMMITTEE

Councillors: K J Berry, G F Blackwell, G J Bocking, J E Day, A J Evans, R Furolo, R E Garnham (Chair), P A Godwin, J Greening (Vice-Chair), R M Hatton, A Hollaway, A S Reece, H A E Turbyfield, M J Williams and P N Workman

Substitution Arrangements

The Council has a substitution procedure and any substitutions will be announced at the beginning of the meeting.

Recording of Meetings

In accordance with the Openness of Local Government Bodies Regulations 2014, please be aware that the proceedings of this meeting may be recorded and this may include recording of persons seated in the public gallery or speaking at the meeting. Please notify the Democratic Services Officer if you have any objections to this practice and the Chair will take reasonable steps to ensure that any request not to be recorded is complied with.

Any recording must take place in such a way as to ensure that the view of Councillors, Officers, the public and press is not obstructed. The use of flash photography and/or additional lighting will not be allowed unless this has been discussed and agreed in advance of the meeting.

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Licensing Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Thursday, 18 October 2018 commencing at
2:30 pm**

Present:

Chair
Vice Chair

Councillor R E Garnham
Councillor J Greening

and Councillors:

K J Berry, G F Blackwell, J E Day, A J Evans, R Furolo, P A Godwin, A Hollaway, A S Reece,
M J Williams and P N Workman

LIC.9 ANNOUNCEMENTS

9.1 The evacuation procedure, as noted on the Agenda, was taken as read.

LIC.10 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

10.1 Apologies for absence were received from Councillors G J Bocking, R M Hatton and H A E Turbyfield. There were no substitutions for the meeting.

LIC.11 DECLARATIONS OF INTEREST

11.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

11.2 There were no declarations made on this occasion.

LIC.12 MINUTES

12.1 The Minutes of the Licensing Committee meeting held on 14 June 2018 and the Licensing Sub-Committee (Licensing Act 2003 and Gambling Act 2005) meeting held on 19 June 2018, copies of which had been circulated, were approved as correct records and signed by the Chair.

12.2 The Chair wished to record his thanks to Members and officers for their excellent work around the Witcombe Cider Festival and he indicated that he had received a number of reports that the festival had been run in an exemplary way.

LIC.13 REVIEW OF HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE POLICY

13.1 The report of the Environmental Health Manager, circulated at Pages No. 21-64, asked Members to agree to establish a Working Group to review the Hackney Carriage (Taxi) and Private Hire Policy, and to name five Members to serve on the Working Group; and to approve the Terms of Reference for the Working Group, as set out at Appendix 1 to the report.

- 13.2 The Environmental Health Manager explained that, at the Licensing Committee meeting on 14 June 2018, Members were advised that Cheltenham Borough and Gloucester City Councils had raised concerns about the disparities between Tewkesbury Borough Council's Hackney Carriage (Taxi) and Private Hire Driver Policy and their own policies. This was causing problems as a large number of the taxis licensed in Tewkesbury Borough operated predominantly in Cheltenham and Gloucester. Since that time, two meetings had been held with officers from Gloucester City and Cheltenham Borough Councils to go through the policies and identify the discrepancies which included: age of vehicles, age of driver, length of time the driver had held a UK/EU driving licence, requirement to take a knowledge test, driving assessment requirements and MOT requirements. He indicated that there was an error in the report at Page No. 22, Paragraph 2.2 which stated that the Working Group would comprise three Members and clarified that this should be five Members - the Lead Member for Clean and Green Environment would also be invited to attend the Working Group meetings.
- 13.3 During the debate which ensued, a Member questioned why Tewkesbury Borough Council's policy was the one which needed to be aligned with the other authorities' policies rather than the other way around. In response, the Environmental Health Manager explained that the Working Group would have an opportunity to look at the differences between the policies and consider the reasons for making changes, for example, there were issues with licensing older vehicles in terms of safety and emissions etc; assurance was provided that it was not intended to make changes for the sake of it. As part of the review, it was proposed to consult with the licensed trade to see how they might be impacted by potential changes, for instance, Gloucestershire County Council used several private hire vehicles for school transport.
- 13.4 A Member indicated that there was a perception that it was easier to obtain a licence from Tewkesbury Borough Council than some of the other authorities in the county so she welcomed the opportunity to review the policy. Another Member understood that Cheltenham Borough Council had recently approved plans to require all taxis to be wheelchair accessible which had caused a lot of unrest among licensed drivers; the Legal Adviser confirmed that this was being phased in over a period of time. The Environmental Health Manager advised that there were several retro-fitted vehicles operating in Tewkesbury Borough and there was a need to have a broader discussion about what this would mean for those vehicles. A Member pointed out that Tewkesbury Borough Council licensed a lot of disabled access vehicles which were used primarily for school contracts and were not available for the public to hire and she questioned whether it would be possible to look at the terms of operation for those vehicles to encourage wider use. She also drew attention to Page No. 49 of the report, Section 2 of the existing policy, which related to novelty vehicles, and raised concern that it was unclear which vehicles needed to be licensed; she felt it was important to give this some consideration in light of the recent accident in New York involving a stretch limousine which had resulted in the death of 20 people. The Chair indicated that there were a number of points which could be picked up by the Working Group so he felt the review would be worthwhile. In response to a query regarding timescales, the Head of Community Services clarified that it was intended to bring a revised policy back to the Licensing Committee meeting on 14 February 2019 and he was of the view that the Working Group would need to meet on three occasions prior to that.

13.5 It was subsequently

RESOLVED

1. That a Licensing Working Group be established to review the Hackney Carriage (Taxi) and Private Hire Policy comprising the following membership:

Councillors G F Blackwell, R Furolo, R E Garnham, A Hollaway and M J Williams. The Lead Member for Clean and Green Environment would also be invited to attend the meetings.

2. That the Terms of Reference for the Working Group be **APPROVED** as set out at Appendix 1 to the report.

LIC.14 REVIEW OF STREET TRADING POLICY

14.1 The report of the Environmental Health Manager, circulated at Pages No. 65-99, asked Members to approve, for public consultation, the draft revised Street Trading Policy, which included an amendment to require an enhanced Disclosure and Barring Service (DBS) check as a pre-requisite to obtaining a street trading licence, as set out at Appendix 3 to the report.

14.2 Members were advised that, at the Licensing Committee meeting on 14 June 2018, it was agreed that street traders should be consulted on the inclusion of an enhanced DBS check as a pre-requisite to obtaining a street trader's licence. On 11 September 2018, a letter was sent to the 17 licensed street traders within Tewkesbury Borough seeking their view on the proposed changes. One response had been received which was generally supportive but raised concern about street traders having to pay for the DBS check themselves and that the check was not necessary for all types of street traders so factors such as location should be taken into consideration in terms of the likelihood of them coming into contact with vulnerable children. The Environmental Health Officer indicated that, whilst it may be less likely that vulnerable children were able to visit street traders in areas that were difficult to access without a vehicle, vulnerable adults may still be able to access such areas and therefore the enhanced DBS checks should be applied to all street traders. On that basis, it was recommended that this amendment be included within the draft revised policy for public consultation.

14.3 Several Members reiterated the importance of recognising that adults could be vulnerable as well as children and that it was necessary to create a safeguarding environment where all vulnerable persons were protected. A Member drew attention to Page No. 77, Paragraph 3.3.1 of the draft revised policy, which stated that the Council would have regard to a number of factors in determining whether an applicant was a suitable person to carry out business as a street trader, and she questioned whether it was necessary to take account of 'failure to make use of a previous street trading consent'. In response, the Environmental Health Manager explained that this intended to prevent applications being made purely to block other traders from using a certain area.

14.4 It was agreed that a minor amendment should be made to Page No. 76, Paragraph 3.2.1 of the draft revised policy to read: 'Applicants applying for a new street trading consent ~~will be expected to obtain~~ **will require** an enhanced DBS certificate (formerly known as CRB) from the Disclosure and Barring Service, which must be no more than one calendar month old when submitted to the Council' and that Paragraph 3.2.2 should be amended to state that: 'The DBS certificate must be in the name and **home** address of the applicant as detailed on the application form' as the DBS was personal to the applicant and separate from any business. A Member noted that the draft revised policy had an implementation date of 1 March 2018 and she questioned whether the requirement to provide a DBS certificate would only apply to new applicants. In response, the Environmental Health Manager advised

that existing licence holders would be requested to provide the DBS certificate at the point of renewal; once the revised policy had been approved, officers would write to licenced traders to ensure they were aware of the changes.

14.5 A Member drew attention to Page No.77, Paragraph 3.3.2 of the draft revised policy which stated that 'Identification badges will be issued by the Council to demonstrate the suitability of the consent holder and any assistants who may be trading on their behalf. Other employees may not need to apply for DBS check and an identification badge as long as they are supervised at all times by a badge holder'. She gave an example of a scenario where someone owned two or three ice cream vans and held a street trading consent in their name but sent out an employee to sell ice cream on their own and she questioned whether the employee would need to undergo a DBS check in that situation. The Head of Community Services felt that this was a valid point and indicated that the policy would be reworded to ensure that any operatives working alone, who were likely to come into contact with vulnerable persons, would need to undergo a DBS check; it would not be reasonable to expect every employee to have a check, for example, employees carrying out food preparation who did not deal with customers directly.

14.6 With regard to the standard conditions, appended to the report at Annex D, a Member felt that the sixth bullet point on Page No. 95 'No television, radio, tape player or other device used for the entertainment of the operator, shall be audible outside, or beyond the trading unit' seemed to contradict the additional conditions applicable to mobile food vendors, set out at Page No. 96, which stated that 'Chimes should not be sounded [...] louder than 80db(A) at 7.5m'. In response, clarification was provided that the first condition intended to prevent situations such as where a radio was being played too loudly from a catering van parked in a layby whereas the decibel level was specific to loudspeakers, used for ice cream van chimes, and was prescribed in legislation.

14.7 It was

RESOLVED

That the draft revised Street Trading Policy, including the amendment to require an enhanced Disclosure and Barring Service (DBS) check as a pre-requisite to obtaining a street trading licence, as set out at Appendix 3 to the report, be **APPROVED** for public consultation, subject to the following amendments:

- Page No. 76, Paragraph 3.2.1 of the draft revised policy to be amended to read: 'Applicants applying for a new street trading consent ~~will be expected to obtain~~ **will require** an enhanced DBS certificate (formerly known as CRB) from the Disclosure and Barring Service, which must be no more than one calendar month old when submitted to the Council';
- Page No. 76, Paragraph 3.2.2 to be amended to read: 'The DBS certificate must be in the name and **home** address of the applicant as detailed on the application form'; and,
- Page No. 77, Paragraph 3.3.2 – 'Identification badges will be issued by the Council to demonstrate the suitability of the consent holder and any assistants who may be trading on their behalf. Other employees may not need to apply for DBS check and an identification badge as long as they are supervised at all times by a badge holder' - To be reworded to ensure that any operatives working alone, who were likely to come into contact with vulnerable persons, would need to undergo a DBS check.

LIC.15 LICENSING GENERAL UPDATE

- 15.1 Attention was drawn to the report of the Environmental Health Manager, circulated at Pages No. 100-102, which provided an update in respect of the significant changes to the Houses in Multiple Occupation regime and the implementation of the Animal Welfare Regulations 2018. Members were asked to consider the report.
- 15.2 The Environmental Health Manager advised that the new legislation had come into effect on 1 October 2018. With regard to Houses in Multiple Occupation (HMOs), there was now a requirement to licence properties that were two or more storeys with at least five tenants that formed more than one household. It was a requirement that any fees applied relating to the licensing regime adequately reflected the costs to the Council of processing an application and managing that application during the period of the licence. The previous countywide fee of £450 had been reviewed and would now be £870 for a five year licence; this had been worked out on a component basis taking into account the actual cost to the authority and was comparable with other local authorities in Gloucestershire. To date, Tewkesbury Borough Council had been contacted by seven landlords wishing to apply to have their properties licensed which, although significantly less than predicted, was in line with similar authorities. A strategy was being put in place to try to identify other HMOs that met the latest requirements. The strategy would involve writing to all properties where the address of the Council Tax payer differed from the property address; writing to all estate and letting agents; carrying out a further publicity campaign; and engaging other Council departments/services and strategic partners with a view to gaining intelligence. The onus would be on the owner to apply for a licence if they were affected by the legislation. A Member suggested that the Electoral Register could be used to identify HMOs and the Environmental Health Manager confirmed there was a specific exemption in the Housing Act which would allow that information to be used for this purpose and it might be possible to combine this with other sources of information, such as Council Tax, in order to identify properties to write to.
- 15.3 A Member sought clarification as to whether flats could be HMOs and was advised that they could be if they were single living units with five or more people from different households sharing facilities such as a bathroom or kitchen. A Member raised concern about the difficulties which could arise in terms of Council Tax payment if a landlord failed to register a property as a HMO and he indicated that he had a particular case in mind. In response, the Chair advised that Members could take any issues to officers at any time and he suggested this be taken up outside of the meeting so the Member could get a definitive answer from the officer in terms of his particular query.
- 15.4 A Member questioned what the sanction would be for failing to register an HMO and was advised that it was an offence so the Council would look to prosecute. The Environmental Health Manager indicated that there were usually several reasons for failing to come forward, for instance, the property may be in poor condition, e.g. no heating or hot water. In response to a query, Members were advised that the landlord would normally be called in for an interview under caution and the Council would make a decision on whether it was in the public interest to take them to Court.
- 15.5 As advised at the previous Licensing Committee meeting, the Animal Welfare Regulations 2018 had come into force on 1 October 2018 and statutory guidance had been issued at the beginning of September. The regulations had the potential to significantly impact upon inspections and how animal activities were assessed. A charging scheme was currently being worked up but the other local authorities in the county had put their schemes on hold pending further guidance which was due to be released. It would be necessary to go out across the borough to identify additional licensable activities; it was noted there were a number of dog boarding franchises within the borough and the legal issues around that would require some

clarification i.e. whether the franchise would need to be licensed or the actual location where boarding took place.

- 15.6 A Member queried whether the new legislation applied to dog and cat breeders and the Environmental Health Manager clarified that dog breeding in particular was one of the key drivers of the legislation. There was a need to clarify the criteria in this regard, for example, whether food, vaccinations etc. were taken into account in terms of any profits made by the breeder, and whether puppies were from a one-off litter. It was also necessary to establish how technology could be used to identify breeders, e.g. social media, but he provided assurance that once the definitions were clear, it would be widely publicised. The Member indicated that he was aware of a dog breeder being identified by Inland Revenue through the insurance he was paying for the dogs and veterinary bills etc. so this could be a potential way of identifying breeders. In addition, breeders tended to register dogs with Crufts or the Kennel Club so that could be used to check the number of puppies in a litter and how much they had been sold for. Another Member suggested that the legislation could be publicised by distributing leaflets in known dog walking areas. A Member questioned whether dog walkers would need to be licensed and the Environmental Health Manager indicated that consideration needed to be given to the definition as there were uncertainties about which particular scenarios would be licensable, for example, if a dog walker picked up dogs from their houses and then took them to their house for the day, there may be an argument that this was technically doggy day care. A Member queried whether the new legislation applied to riding schools and was advised that riding establishments were already covered by legislation but the new regulations included animals used for entertainment, for example, a clown bringing out an iguana at a child's party, falconers etc. Clarification was provided that agricultural animals were covered by the County Council under different legislation. A Member pointed out that school fetes and community events often had a 'petting zoo' and the Environmental Health Manager confirmed they would need to be licensed but a technical matter which needed to be resolved was where the animal should be licensed, for instance, if an animal from Wales was brought to an event in Tewkesbury Borough.

- 15.7 Having considered the information provided, it was

RESOLVED That the updates in respect of the significant changes to the Houses in Multiple Occupation regime and the implementation of the Animal Welfare Regulations 2018 be **NOTED**.

LIC.16 LICENSING AUDIT ACTION PLAN

- 16.1 The report of the Environmental Health Manager, circulated at Pages No. 103-114, provided an update on the progress made against the actions arising from the internal audit of the licensing function. Members were asked to consider the report.
- 16.2 The Environmental Health Manager advised that the Licensing Audit Action Plan, attached at Appendix 1, set out progress to date; whilst the majority of actions had been completed, four required further work and these were outlined at Page No. 104, Paragraph 2.2 of the report. The requirement to provide Lifting Operations and Lifting Equipment Regulations (LOLER) certificates required an amendment to the Council's Hackney Carriage (Taxi) and Private Hire Policy and it was noted that a Working Group had been established earlier in the meeting to undertake that work. Safeguarding training had been provided for the majority of taxi drivers in March and April 2018 and sessions had now been arranged for November and December 2018 for those who had been unable to attend the initial sessions, and for any new drivers. Any drivers who did not take up the training opportunity would be in breach of their licence and the enforcement procedure would be commenced which could ultimately result in their licence being suspended. In terms of future safeguarding training sessions, any new drivers would be directed to Gloucester City Council and

would be required to provide their certificate of completion to Tewkesbury Borough Council. With regard to the action in relation to cost recovery of fees associated with animal boarding establishments, since the original audit was carried out, a new inspections and ratings regime had been introduced as part of the Animal Welfare Regulations and a new charging scheme was being developed as a result. It was intended to apply the model that had recently been used for the charging scheme for HMOs whereby the various tasks had been identified and associated costs calculated. The Environmental Health Manager went on to advise that it had been intended to carry out a programme of inspections of licensed premises alongside food inspections; unfortunately, this had not been possible due to reduced resources. A Senior Licensing Officer post had been agreed as part of the recent service review and an inspection programme would be put in place as soon as that post had been filled. He stressed that, whilst there was currently no formal inspection programme, premises were inspected as and when necessary and officers would be aware of any issues and would deal with them accordingly.

16.3 In response to a Member query as to how often taxi drivers would be expected to undergo safeguarding training, the Environmental Health Manager understood this would be every three years. He went on to explain that he was in discussion with Cheltenham Borough Council about the possibility of introducing a training day which would cover a range of key components including equalities training and the knowledge test as well as safeguarding training. This would be considered as part of the review of Hackney Carriage (Taxi) and Private Hire Policy.

16.4 It was

RESOLVED That the progress made against the Licensing Audit Action Plan be **NOTED**.

The meeting closed at 3:50 pm

TEWKESBURY BOROUGH COUNCIL

Report to:	Licensing Committee
Date of Meeting:	21 March 2019
Subject:	Review of Hackney Carriage and Private Hire Policy
Report of:	Head of Community Services
Corporate Lead:	Deputy Chief Executive
Lead Member:	Lead Member for Clean and Green Environment
Number of Appendices:	4

Executive Summary:

It is accepted best practice that taxi licensing policies will be reviewed on a three yearly basis. The Council's Hackney Carriage and Private Hire Policy was last revised in December 2016. Following a number of Working Group meetings, which included representations from taxi/private hire operators, a revised version of the policy has been produced. Where possible, the policy has been aligned as closely as possible with Cheltenham Borough and Gloucester City Councils' policies. In order to make the policy more user-friendly, it has been separated into four distinct documents.

Recommendation:

To APPROVE the draft revised Hackney Carriage and Private Hire Policy for public consultation following the Working Group's review.

Reasons for Recommendation:

It is a requirement of the existing policy that, where any significant changes are made to the policy, these changes are subject to a public consultation. The review is a wholesale review of the policy where a number of the components that make up the policy have changed.

Resource Implications:

There are no significant resource implications arising from this report.

Legal Implications:

1. When introducing or changing a policy, the Council must ensure that it complies with the relevant legislation.
2. The Council must ensure that any decision-making or delegation complies with its powers under the Council's Constitution.
3. Whenever significant changes are introduced that affect those individuals or stakeholders, consultation should be undertaken.

Risk Management Implications:

None.

Performance Management Follow-up:

Any comments received as a result of the public consultation will be considered and the policy amended to reflect these comments where appropriate. Following the public consultation, the final draft of the policy will be brought back to Licensing Committee for approval.

Environmental Implications:

None.

1.0 INTRODUCTION/BACKGROUND

- 1.1** Tewkesbury Borough Council has the responsibility to regulate hackney carriage and private hire trade under the provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 1.2** The Council's regulatory position is set out in Tewkesbury Borough Council's Hackney Carriage (Taxi) and Private Hire Policy 2016-19 which was revised on 6 December 2016. The Council has committed to review this policy every three years, therefore the next review is due to be completed by 6 December 2019.
- 1.3** At Licensing Committee on 8 October 2018, it was resolved that a Working Group should be established in order to consider the specific changes that were required to reflect current best practice and to align it as closely as possible with Cheltenham Borough and Gloucester City Council's policies.
- 1.4** The Working Group met on three occasions on 21 November 2018, 10 December 2018 and 14 February 2019. Representatives from the hackney carriage and private hire industry were invited along to the second meeting and provided technical input into the review process.

2.0 KEY CHANGES TO THE HACKNEY CARRIAGE AND PRIVATE HIRE POLICY

- 2.1** The current policy consists of a single document. In order to make the policy more user friendly for Officers, Members and the taxi industry, the revised policy has been split into four separate documents which are as follows:
- Hackney Carriage and Private Hire Policy: Regulatory Guidelines
 - Hackney Carriage and Private Hire Policy: Hackney Carriage Driver and Vehicle Rules
 - Hackney Carriage and Private Hire Policy: Private Hire Driver and Vehicle Rules
 - Hackney Carriage and Private Hire Policy: Private Hire Operator Rules

2.2 Three Strikes Policy

- 2.2.1** The current policy does not provide sufficient clarity regarding when a driver, operator or vehicle proprietor should be referred to the Licensing Sub-Committee.

- 2.2.2** In order to provide some clarity to Officers, Members and those in the taxi industry, the Three Strikes Policy currently used by Cheltenham Borough Council has been incorporated into the revised policy.
- 2.2.3** The aim of the three strikes policy is to define and clarify specific infractions which may, on their own, not be considered serious enough to warrant direct referral to a Licensing Sub-Committee. When individual infractions are aggregated over a two year rolling period, the cumulative effect can be indicative of more serious underlying issues and would warrant a referral to the Licensing Sub-Committee.
- 2.2.4** It is proposed that, where three infractions occur within the two year rolling period, the driver, operator or vehicle proprietor will be referred to the Licensing Sub-Committee.
- 2.2.5** The three strikes policy seeks to strike a balance, allowing Officers to deal with the less serious issues whilst ensuring that cumulative non-compliance is considered to be more serious and referred to the Licensing Sub-Committee.
- 2.2.6** Members should note that, should there be particular aggravating factors that result in an infraction, the Officer continues to have the discretion to refer the driver, operator or vehicle proprietor to the Licensing Sub-Committee even where the number of infractions in a two year rolling period is less than three.

2.3 Age/Experience of Driver

- 2.3.1** The existing policy does not specify a minimum age of the driver; however, it does specify a requirement that an applicant must have held a Driver and Vehicle Licensing Agency (DVLA) licence for a minimum of three years. Both Cheltenham Borough and Gloucester City Council specify a minimum age of 21 years. In order to align with the policies of those authorities, the revised policy makes it a requirement that applicants must be 21 years or older.
- 2.3.2** The existing policy does not require a driving proficiency test; however, it does specify that an applicant must have held a DVLA licence for a minimum of three years. It was concluded through the Working Group that, although a driver may have held a DVLA driving licence for three years, this did not necessarily mean that the applicant had been driving for three years and therefore confirm a high degree of driving proficiency. The revised policy now requires all new applicants to have held a full DVLA licence for one year and to provide evidence of the successful completion of a recognised driver proficiency test. This brings the revised policy into alignment with those of Cheltenham Borough and Gloucester City Councils.

2.4 Age of Vehicles

- 2.4.1** The current policy does not restrict the minimum or maximum age of vehicles as long as they meet the other requirements of the policy. Both Cheltenham Borough and Gloucester City Council will not licence any vehicles that has not previously been licensed unless they have a Euro 5 or 6 engine. Gloucester City Council will not re-license vehicles older than 10 years; Cheltenham Borough Council will not re-license vehicles older than 14 years.
- 2.4.2** Through the Working Group, taxi industry representatives advised that a number of drivers and operators bought vehicles aged between five and 10 years old on the basis that, given the improved build quality of vehicles, vehicles of this age represented good value for money, while still remaining in good condition.

- 2.4.3** Having considered the representations from the taxi industry, the Working Group concluded that, given the rural nature of Tewkesbury Borough and the fact that modern cars between five and 10 years old can remain in excellent condition and have a range of modern safety features, as maximum age of 10 years for initial licensing would be included in the revised policy. An upper age limit of 14 years is also included in the revised policy for the majority of vehicles.
- 2.4.4** Vehicles that do not currently meet the age limit will require to be replaced with one that meets the age policy no later than two years from the date of the revised policy.
- 2.4.5** Tewkesbury Borough Council licenses a large number of vehicles that are used for school contracts and have been adapted for wheelchair access. Representatives from the industry advised that these vehicles are expensive and difficult to replace. The Working Group concluded from the representations made by the industry representatives that there were sufficient checks in place regarding the condition and safety of these vehicles, therefore wheelchair accessible vehicles will be exempt from the age of vehicles component of the policy.
- 2.4.6** The revised policy retains the discretion for Licensing Officers to license vehicles that do not meet the vehicle age criteria, provided these vehicles are in excellent condition. The types of vehicle which will be covered under this exemption include wedding vehicles, elite vehicles, adapted vehicles or novelty vehicles.

2.5 Vehicle Checks

- 2.5.1** The existing policy requires that a standard MOT be carried out as part of the licensing process. The revised policy includes a requirement that additional checks are carried out on the vehicle. These additional checks are based on national standards that have been adopted by a large number of licensing authorities across the UK including Cheltenham Borough and Gloucester City Councils.
- 2.5.2** The existing policy does not specify where vehicles should be checked. With the introduction of the additional checks, the requirement to have vehicles checked at approved garages has been included in the revised policy. The move to using approved garages will require a garage approval scheme to be introduced.

2.6 Lifting Operations and Lifting Regulations 1989 (LOLER)

- 2.6.1** It is a requirement of LOLER that any lifting equipment fitted to vehicles that lifts people requires inspection by a competent person every six months. It is now a requirement of the revised policy that a certificate of inspection is presented at the time of application and then submitted to the authority following the next six monthly inspection.

2.7 Signage

- 2.7.1** The revised policy contains specific requirements regarding signage on the vehicles. It is now a requirement that all non-exempt vehicles have signage on the door panels. This signage will include the operator's name, contact details, the words "pre-booking only" and "licensed by Tewkesbury Borough Council". These revised requirements are aimed at making the vehicle more identifiable and are being introduced partly due to concerns raised by Cheltenham Borough and Gloucester City Councils in relation relating to identifying Tewkesbury Borough Council licensed taxis in Cheltenham and Gloucester.
- 2.7.2** A requirement to have a "no smoking" sign in each of the vehicle's compartments has been introduced into the revised policy. This reflects the requirements of smoke free legislation.

2.8 Disabled Access

2.8.1 The revised policy introduces a requirement that all new hackney carriage vehicles are wheelchair accessible; this aligns with both Cheltenham Borough and Gloucester City Councils.

3.0 OTHER OPTIONS CONSIDERED

3.1 N/A

4.0 CONSULTATION

4.1 Subject to Members' approval, it is proposed to carry out a full public consultation on the revised Hackney Carriage and Private Hire Policy.

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 Hackney Carriage (Taxi) and Private Hire Policy 2016-2019

6.0 RELEVANT GOVERNMENT POLICIES

6.1 None arising out of this report

7.0 RESOURCE IMPLICATIONS (Human/Property)

7.1 None arising out of this report

8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

8.1 None arising out of this report

9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

9.1 None arising out of this report

10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

10.1 None arising out of this report

Background Papers: Hackney Carriage (Taxi) and Private Hire Policy

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Appendices: Appendix 1 - Hackney Carriage and Private Hire Policy: Regulatory Guidelines

Appendix 2 - Hackney Carriage and Private Hire Policy: Hackney Carriage Driver and Vehicle Rules

Appendix 3 - Hackney Carriage and Private Hire Policy: Private Hire Driver and Vehicle Rules

Appendix 4 - Hackney Carriage and Private Hire Policy: Private Hire Operator Rules



Hackney Carriage & Private Hire Policy

Document 1 of 4

Regulatory Guidelines

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1. Introduction

1.1 Powers and Duties

Tewkesbury Borough Council has adopted the Local Government (Miscellaneous Provisions) Act 1976 (Minute 71, 23 April 1980). Through the 1976 Act and other relevant legislation the Council has a duty to carry out its licensing functions in respect of hackney carriage and private hire vehicles, drivers and operators. Hackney carriages are also known as taxis.

1.2 Objectives

Hackney carriage and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide services in situations where other public transport is either not available (for example in rural areas, or outside “normal hours” of operation such as in the evenings or on Sundays), or provide public transport for those with mobility difficulties. In setting out its policy, the Council seeks to promote the following objectives:

- The protection of public health and safety;
- The establishment of a professional and respected hackney carriage and private hire trade;
- Access to an efficient and effective public transport service;
- The protection of the environment;
- Improve standards of service and the visibility of hackney carriages/private hire vehicles.

The aim of the licensing process, in this context, is to regulate the hackney carriage and private hire trade in order to promote the above objectives. It is the Council’s wish to facilitate well-run and responsible businesses, which display sensitivity to the wishes and needs of the general public.

1.3 Best Practice Guidance

In formulating this policy consideration has been given to the advice contained in the ‘Taxi and Private Hire Vehicle Licensing Best Practice Guidance’ issued by the Department for Transport in March 2010.

1.4 Status

In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy document and, in particular, the objectives set out above.

Notwithstanding the existence of this policy document, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to depart substantially from its policy document, clear and compelling reasons will be given for doing so. The purpose of this policy document is to formulate guidelines which detail the Council’s current stance on the relevance of convictions and cautions and other relevant factors in respect of applications for the grant of new licences, disciplinary action against existing licence holders, the renewal of existing hackney carriage and private hire drivers, operators and proprietor’s licences.

These policy document guidelines have been produced to assist Members of the Council’s Licensing Committee, Licensing Sub-Committees and Council Officers in their decision-making and to maintain the consistency of the decisions made. They have also been formulated to provide clearer information to current licence holders and potential applicants, with a view to minimising cost and time spent by a licence holder, an applicant and the Council.

The aim of the licensing regime to which these policy document guidelines relate is not to punish the applicant twice for an offence, where criminal action has already been taken, (which includes a conviction or caution), but to ensure that public safety is not compromised.

2 Qualifications and Requirements

2.1 General

All qualifications and requirements for applicants are set out in the respective 'Private Hire; Driver, Vehicle and Operator Rule Book' and 'Hackney Carriage; Driver and Vehicle Rule Book' available on the Council's website at [XXXXXXX](#) by contacting the Licensing Team at licensing@tewkesbury.gov.uk or by writing to:

Senior Licensing Officer
Tewkesbury Borough Council
Gloucester Road
Tewkesbury
Gloucester
GL20 5TT

2.2 Suitability

The Local Government (Miscellaneous Provisions) Act 1976 deals with the issue of driver suitability:

*"...Council shall not grant a licence to drive a (Private Hire/Hackney Carriage Vehicle) unless they are satisfied that the person is a **fit and proper person** to hold a driver's licence."*

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 states:

"...the district council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds –

1) that he / she has, since the grant of the licence,

i) been convicted of an offence involving dishonesty, indecency or violence,

or,

ii) been convicted of an offence under or has failed to comply with the provisions of the Town Police Clauses Act 1847 or Part of this Act,

or,

2) any other reasonable cause."

The wording of the legislation makes it clear that the Council may grant a licence ONLY if it is satisfied that the person is "**fit and proper**" – the onus is on the applicant to prove this on a balance of probabilities, NOT for the Council to demonstrate that they are not.

Whether someone is a "fit and proper person" to hold a licence is ultimately a matter of common sense. When considering whether someone should serve the public, the range of passengers that a driver may carry should be borne in mind for example, elderly people, unaccompanied children, the disabled, those who have had too much to drink, lone women, vulnerable people, foreign visitors and unaccompanied property.

Some areas to consider include –

- **Honesty and trustworthiness** – drivers often have knowledge that a customer is leaving a house empty; they have opportunities to defraud drunken, vulnerable or foreign people or to steal property left in cars. They must not abuse their position of trust. *For example, any passenger would expect to be charged the correct fare for a journey and then be given the*

correct change; they would also expect a driver to hand in any article left by a passenger in a vehicle; and also the driver to maintain confidentiality between them and the passenger.

- **Not abusive** – drivers are often subject to unpleasant or dishonest behaviour. However this does not excuse any aggressive or abusive conduct on the part of the driver. Drivers are expected to avoid confrontation, and to address disputes through the proper legal channels. In no circumstances should they take the law into their own hands.
- **A good and safe driver** – Passengers paying for a transport service rely on their driver to get them to their destination safely. They are professional drivers and should be fully aware of all Road Traffic legislation and conditions attached to their licence.
- **Health** – Drivers are expected to be both physically and mentally fit to perform their role.
- **Ability** – Both private hire and hackney carriage drivers are expected to be capable of transporting passengers to their destination in a timely manner.

2.3 Protecting the Public

The overriding consideration for the Members of the Licensing Committee, Licensing Sub-Committee and Council Officers is to protect the public. Having considered and applied the appropriate policy document guidelines, the following, generally accepted, question should be asked:

“Would you (as a member of the Licensing Committee, Licensing Sub-Committee or other person charged with the ability to grant a hackney carriage/private hire driver’s licence) allow your daughter or son, granddaughter or grandson, spouse, mother or father, or any other person you care for or any vulnerable person you know, to get into a vehicle with this person alone?”¹

If the answer to this question is an unqualified yes, then a licence should normally be approved or allowed to continue. If there are any doubts in the minds of those making the decision, then the licence must be refused, suspended or revoked. It is the responsibility of the applicant/licence holder to satisfy the Council that they are a fit and proper person.

¹ Paragraph 10.45 Taxis – Licensing Law and Practice by James T. H. Button, Butterworths Third edition 2009

Case law also makes it clear the perception of hardship and that the impact of losing (or not being granted) a driver’s licence on the applicant and their family is not a consideration to be taken into account when deciding whether a person is a fit and proper. (Leeds City Council v Hussain [2002] EWHC 1145 (Admin). [2003] RTR 199 and Cherwell District Council v Anwar [2011] EWHC 2943 (Admin).

2.4 Convictions

The Council will look at all past indicators (convictions, cautions, fixed penalties, motoring convictions etc) that may affect a person’s suitability to hold a licence. Applicants (both new and on renewal) are required to declare all convictions, cautions and fixed penalties on their application and sign a statutory declaration to that effect. Applicants who are found to have given false information on an application form, or those existing licence holders who have failed to declare any relevant fact may have their licence suspended or revoked.

2.5 Soft information and information from other sources

The Council may receive soft information from other agencies or via complaints made from members of the public. This information will be considered in cases where it calls into question an applicant or licence holder’s ability to meet the “fit and proper person” test.

2.6 Options available to the Licensing Committee, Licensing Sub Committee and Council Officers

When determining an application or reviewing a licence holders' suitability to hold a licence the Members of the Committee, Sub-Committee or Council Officer making the decision will have the following options:

- To approve the licence / take no action.
- To impose additional conditions on the licence.
 - *This action may be taken with regard to either new applications or existing licence holders.*
- To give a written warning.
- To refuse/revoke the licence.
- For existing licence holders - to suspend the licence
 - *Suspension can be used where serious concerns are raised over the suitability of an individual to hold a licence. In this instance, on the balance of probabilities, the licence holder is not a "fit and proper person" but may become so at a later date. This may either be through an action they may take, such as in the case of a driver undergoing a further medical examination, or by demonstrating a satisfactory standard of driving by successfully undertaking a Driving Standards Agency Test. Any action required of the licence holder would be specified on the notice of suspension.*

In the interests of ensuring the safety of the travelling public the Members of the Licensing Committee, Licensing Sub-Committee and Council Officers will take any action they deem appropriate depending on the merits of the individual case. This may include requiring an applicant or licence holder to undergo any further examination or test (at their expense) as they deem fit, and in the case of an existing licence holder, suspending their licence pending the outcome of any such examination or test. In cases where licences are suspended or conditions imposed a right of appeal is available as detailed at section 5 of this document.

2.7 Each case on its merits

The test that must be applied is that on the balance of probabilities, is the licence holder or applicant a fit and proper person to hold a licence. Or in other words, would the safety of the travelling public be put at risk if the applicant/licence holder was permitted to retain or obtain a licence.

When reaching a decision each case will be treated on its merits. Factors that may be considered include:

- Any offences, cautions of fixed penalties received. When considering an offence the Council may also consider the following:
 - Details of the offence.
 - Severity of the sentence imposed,
 - Nature of the sentence imposed i.e. did the sentence aim to reform the individual such as a drink driving course or community service order.
 - The Court that tried the offence i.e. was it an offence that could have been heard in a Magistrates' Court but was referred to Crown Court due to the particular circumstances of the offence or did the offender elect for Crown Court trial, as of right.
 - Any history of good conduct since the offence, or character references from credible persons/agencies involved **(these must be supplied by the applicant/licence holder).**

- Any representations made, or supporting information provided by the applicant, including evidence from witnesses.
- Tewkesbury Borough Council's policy on the relevance of convictions.
- The licence holder's rights under the European Convention on Human Rights.
- Any complaints made against the licence holder.
- The licence holder's actions following any complaint/offence.
- Any breach of licence conditions or Council policy.
- Any warning letters issued to the licence holder.
- Any strikes received under the Council's Three Strikes Policy
- Any other relevant information.

It is for the applicant, or existing licence holder (if under review) to prove they are a "fit and proper person" to hold a licence. **Any supporting information that may help their case must be produced to the Council in order for it to be considered.**

3 Guidelines on the relevance of convictions

The Council's policy on the relevance of convictions, cautions and fixed penalties is as follows (the following policy applies to new applicants and existing licence holders):

Any changes in legislation will be dealt with as appropriate.

3.1 Each case will be decided on its own merits.

The overriding consideration must be the safety of the public. The council has a duty to ensure so far as is possible that all applicants and licence holders are fit and proper persons to do so.

3.2 A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain:

- (a) Free of convictions for an appropriate period, and
- (b) Show evidence of good character from the time of the conviction. Simply remaining free of conviction does not necessarily provide sufficient evidence of good character.

Discretion would be appropriate where an offence is an isolated one and there are mitigating circumstances. Multiple offences or a series of offences over a period of time would give greater cause for concern and may give indications of a pattern of criminal behaviour which would need to be taken into account.

3.3 The following examples afford a general guide on the action that will be taken in relation to applicants with the following convictions:

(a) Minor Traffic Offences

Isolated convictions for minor traffic offences, e.g. obstruction, waiting in a restricted street, etc., should not prevent a person from proceeding with an application. However the number,

type and frequency of the type of offence should be taken into account. If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence then a Hackney Carriage or Private Hire Drivers Licence may be granted after its restoration but a warning should be issued as to future conduct.

(b) Major Traffic Offences

An isolated conviction for a major traffic offence should normally merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire drivers. More than one conviction for this type of offence within the last two years should merit refusal and no further application should be considered until a period of 7 years free from convictions has elapsed.

The following traffic offences are considered to be major:

- AC10** Failing to stop after an accident
- AC20** Failing to give particulars or to report an accident within 24 hours
- AC30** Undefined accident offences
- BA10** Driving while disqualified by order of court
- BA20** Attempting to drive while disqualified by order of court
- BA40** Causing death by driving while disqualified
- BA60** Causing serious injury by driving while disqualified
- CD10** Driving without due care and attention
- CD20** Driving without reasonable consideration for other road users
- CD30** Driving without due care and attention or without reasonable consideration for other road users
- CD40** Causing death through careless driving when unfit through drink
- CD50** Causing death by careless driving when unfit through drugs
- CD60** Causing death by careless driving with alcohol level above the limit
- CD70** Causing death by careless driving then failing to supply a specimen for analysis
- CD80** Causing death by careless or inconsiderate driving
- CD90** Causing death by driving: unlicensed, disqualified or uninsured drivers
- DD10** Causing serious injury by dangerous driving
- DD40** Dangerous Driving
- DD60** Manslaughter or culpable homicide while driving a vehicle
- DD80** Causing death by dangerous driving
- DD90** Furious driving
- DR10** Driving or attempting to drive with alcohol level above the limit
- DR20** Driving or attempting to drive while unfit through drink
- DR30** Driving or attempting to drive then failing to supply a specimen for Analysis
- DR31** Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity
- DR40** In charge of a vehicle while alcohol level above limit
- DR50** In charge of a vehicle while unfit through drink
- DR60** Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive
- DR61** Refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive
- DR70** Failing to provide specimen for breath test
- DR80** Driving or attempting to drive when unfit through drugs
- DR90** In charge of a vehicle when unfit through drugs
- DG10** Driving or attempting to drive with drug level above the specified limit.
- DG40** In charge of a vehicle while drug level above specified limit
- DG60** Causing death by careless driving with drug level above the limit
- IN10** Using a vehicle uninsured against third party risks
- LC20** Driving otherwise than in accordance with a licence
- LC30** Driving after making false declaration about fitness when applying for a licence
- LC40** Driving a vehicle having failed to notify a disability

- LC50** Driving after a licence has been revoked or refused on medical grounds
- MS10** Leaving a vehicle in a dangerous position
- MS20** Unlawful pillion riding
- MS30** Play street offences
- MS50** Motor racing on the highway
- MS60** Offences not covered by other codes
- MS70** Driving with uncorrected defective eyesight
- MS80** Refusing to submit to an eyesight test
- MS90** Failure to give information as to identity of driver etc
- MW10** Contravention of special roads regulations (excluding speed limits)
- PC10** Undefined contravention of pedestrian crossing regulations
- PC20** Contravention of pedestrian crossing regulations with moving vehicle
- PC30** Contravention of pedestrian crossing regulations with stationary vehicle
- UT50** Aggravated taking of a vehicle

Aiding, abetting, counselling or procuring

Offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12)

Causing or permitting

Offences as coded above, but with 0 changed to 4 (e.g. IN10 becomes IN14)

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. IN16 becomes IN16)

(i) Hybrid Traffic Offences

Hybrid Offences are borderline of being considered major Offences depending on how many points are obtained. Offences of the type listed below will be treated as major traffic offences if four or more penalty points were imposed for the offence.

- CU10** Using vehicle with defective brakes
- CU20** Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
- CU30** Using a vehicle with defective tyre(s)
- CU40** Using a vehicle with defective steering
- CU50** Causing or likely to cause danger by reason of load or passengers
- CU80** Using a mobile phone while driving a motor vehicle
- SP10** Exceeding goods vehicle speed limit
- SP20** Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
- SP30** Exceeding statutory speed limit on a public road
- SP40** Exceeding passenger vehicle speed limits
- SP50** Exceeding speed limit on a motorway
- SP60** Undefined speed limit offence

Aiding, abetting, counselling or procuring

Offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12)

Causing or permitting

Offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14)

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16)

(c) Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any

sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Where an applicant has a conviction for using a hand-held mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed.

(d) Drugs

An applicant or existing licence holder with a conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years free of convictions before an application or re-application is entertained, or 5 years after detoxification treatment if he/she was an addict.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence holder will not be granted until at least 5 years have elapsed since completion of any sentence imposed.

The nature, quantity and class of drugs will be taken into account. Each case will be considered on its own merit.

(e) Sex and Indecency Offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.

In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or any 'barred' list.

(i) Exploitation

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse.

(f) Offences involving Violence

Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

(i) Crimes resulting in death

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

(ii) Possession of a weapon

Where an applicant has a conviction for possession of a weapon or any weapon related offence, a licence will not be granted unless at least 7 years have elapsed since the completion of any sentence.

(g) Dishonesty

Hackney carriage and private hire drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become “fair game” for an unscrupulous driver.

Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Any dishonesty by any applicant or the other person on the applicants behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.

(h) Hackney Carriage and Private Hire Offences

Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

(i) Vehicle construction of use offences

Where an applicant has a conviction for any offence which involved the use of a vehicle (including Hackney Carriages or Private Hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

(j) Offences of Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

(k) Other Miscellaneous Offences

These could include local authority offences, byelaw offences, nuisance offences etc. which although may not be directly relevant to hackney carriage and private hire licensing would demonstrate a feckless or irresponsible attitude and should not be discounted lightly. Each case would need to be assessed on an individual basis and although they may not necessarily debar an applicant from receiving a licence a strict warning should be given.

(l) Spent Convictions

The Council will only consider spent convictions if it appears to be relevant for deciding whether the applicant is a fit and proper person to hold a licence and that full consideration for determining the application cannot be given except by admitting or requiring evidence relating to that spent conviction.

(m) Cautions and Endorsable Fixed Penalties

For the purposes of these guidelines formal cautions and endorsable fixed penalties shall be treated as though they were convictions.

4. Licensing Committee and Licensing Sub-Committee

Applicants or existing drivers may be referred to the Licensing Committee or Licensing Sub-Committee for their application/suitability to be considered. The Sub-Committee panel consists a minimum of three to a maximum of seven members. Prior to a hearing the licence holder or applicant will be advised of the date, time and place of the hearing and of their right to attend and be represented should they wish. A copy of the committee report will be supplied to them prior to the hearing.

4.1 Right to be Represented

Applicants or licence holders are entitled to be represented at a Committee hearing. Any such representative does not need to be legally trained. However should an applicant/licence holder decide to use a representative who is not legally trained they do so at their own risk. Given, in the case of an existing licence holder, their livelihood may be at stake the Council would recommend that any person going before a Committee gives serious consideration to seeking legal representation or advice.

Non-legal representatives may give character references of the applicant. Written character references will also be accepted.

4.2 Interpretation Services

Interpretation services are available for Committee hearings. If an applicant or licence holder requires this service they should advise the Officer dealing with their case of the required language at their earliest convenience in order for the necessary arrangements to be made.

An applicant/licence holder may provide their own interpreter. The Council will accept any such representative and assume they are fully qualified to perform the role.

4.3 Exclusion of the Public

In view of the nature of any such hearing and the personal facts that may emerge, the hearing will be conducted with the press and public excluded. Pursuant to Section 100A(4) of the Local Government Act 1972 (as amended), the public would be excluded on the grounds that the matter involves the likely disclosure of exempt information as defined in Section 100 of the Local Government Act 1972 (as amended). Only those permitted by the applicant or licence holder will be allowed to remain in the room.

4.4 Recommended Procedure

The Chair of the Committee will open the hearing stressing the Committee's independence and outlining the procedures which will be followed. The Committee can regulate the conduct of the hearing as it wishes, so long as it is acting fairly and reasonably to the parties thereto.

The recommended committee procedure is as follows:

- i. The Council's report is presented by the Environmental Health Manager or other authorised Officer.
- ii. The Officer is questioned by the applicant/licence holder (or representative) and then by Members of the Committee if any points need clarification.
- iii. The Chair invites the applicant/licence holder (or representative) to present his case.
- iv. The applicant/licence holder (or representative) can be questioned by the Council's Officers and/or Members if any points need clarification. Even if represented, the applicant/licence holder can be asked questions directly.

- v. Any party may call witnesses of fact or character, who may be questioned by the other party and the Committee. Details should be disclosed at the earliest opportunity and 7 days prior to the Committee, if possible, to the other party and Members.
- vi. Written evidence should be disclosed at the earliest opportunity and 7 days prior to the Committee if possible, to the other party and the Members.
- vii. Each side must be given the opportunity to sum up if they so wish, the applicant/licence holder (or representative) speaking last.
- viii. At the conclusion of the case the Chair will request all parties (with the exception of the Council's Legal Officer and Democratic Services Officer) to leave the room while the Committee deliberates. Alternatively, the Committee may retire to a separate room, if more convenient.
- ix. When the Committee has reached its decision, all parties will be invited to return to be informed of the decision.
- x. The decision will later be confirmed in writing and will include a statement of reasons for reaching that decision.

4.5 Failure to Attend

If the applicant/licence holder does not attend the hearing at the appointed time and day then the Committee can continue and consider the matter without the applicant/licence holder's presence. In such cases this will be conducted on the basis of the evidence provided by the Officer, together with any written comments received from the applicant/licence holder concerned.

4.6 The Committee's Powers

The committee has the following powers:

- i. To approve the licence / take no action;
- ii. To impose additional conditions on the licence;
- iii. To give a written warning;
- iv. To refuse / revoke the licence;
- v. For existing licence holders – to suspend the licence (pending a suitable outcome to be determined by the Committee)

4.7 Applicants/Licence Holders Rights

The applicant of licence holder has the following rights:

- i. To take legal advice at any time.
- ii. To be represented by a Solicitor or other representative during any part of the procedure. Applicant/licence holder to be responsible for all costs arising from such representation.
- iii. To produce all relevant evidence in respect of his case. However, such evidence must be disclosed to the Head of Legal Services at least 7 working days, if possible, prior to the hearing.
- iv. To ask questions of the Committee or Officers.
- v. To appeal to the appropriate Court against any decision to refuse, suspend or revoke a licence or against a licence condition.

4.8 Points to Note

- i. The Environmental Health Manager, Legal and Democratic Services Officers, or other authorised Officer, will act as Clerk to the Committee and provide advice when needed on matters which may be raised of a legal or procedural nature, either during the hearing or before the Committee's decision is announced.
- ii. Both sides must be given every reasonable opportunity to present their case.
- iii. In order to assist the applicant/licence holder to present his case, there should be no excessive formality about the hearing. The atmosphere should be such as to bring out all of the facts to enable the Committee to make a reasoned decision.
- iv. The Committee must not only act but must be seen to act fairly and impartially. The Committee will be acting in quasi judicial manner and must consider only the evidence which is put before it. The Committee must act reasonably on the basis of the evidence and not take into account extraneous or irrelevant facts.
- v. Applicants/licence holders must be made aware that the hearing may take a number of hours to complete and should be prepared to wait until the completion of the case before leaving. It may be that the Committee will be considering other business and several matters may be heard on the same day. This could result in several hours wait for an applicant/licence holder.

5. Rights of Appeal

In all cases where the Council:

- Refuses an application
- Refuses to renew a licence
- Suspends a licence
- Revokes a licence, or
- Imposes conditions on a licence,

The applicant or licence holder will be notified of the decision in writing, such notification will include full reasons for the decision. In any such case the applicant or licence holder will have the right of appeal to the Magistrates' or Crown Court (as appropriate). Any such appeal must be made with 21 days of receiving written notification of the Council's decision.

6. Complaints Investigation Procedure

6.1 When a complaint is lodged about any alleged improper activity on the part of a proprietor/operator or driver, a signed written statement shall be sought from the complainant. The statement shall include all relevant information in particular clearly identifying the licensee, his car and/or plate number, date, time and place of the alleged incident, and the name(s) and address(es) of any witnesses.

Complaints of a minor nature may be dealt with by telephone or visit. All complaints of a serious nature will be investigated.

6.2 Upon receipt of the written complaint, the substance thereof shall forthwith be sent to the licensee against whom the complaint is made, who shall be invited to submit a written statement answering the allegation made.

6.3 If the person about whom a complaint is made, has not responded to the invitation within 7 days of being so invited, then a reminder shall be sent, but after a further 7 days the complaint may be dealt with without further reference to him/her.

6.4 If on receipt of the licensee's reply, it appears that there is substance in the complaint, the parties involved shall be interviewed.

6.5 The Senior Licensing Officer, upon examination of all the information available shall decide which of the following courses of action he/she considers appropriate:

- To take no action,
- To impose additional conditions on the licence,
- To give a written warning,
- To revoke the licence, or
- To suspend the licence

6.6 Any written warnings shall be expunged from the licensee's record upon the expiry of 12 months following the date of issue.

7. Three Strikes Policy for Hackney Carriage and Private Hire Drivers

Tewkesbury Borough Council operates a Three Strikes Policy, which is designed to support the aims and objectives of the Council in that all operators, drivers and vehicle proprietors maintain the high standards required of them at all times.

The aim of the Three Strikes Policy is to work in conjunction with other enforcement options. It provides a formalised stepped enforcement plan. The purpose of the scheme is to record misdemeanours and to act as a record of a licence holder's behaviour and conduct so as to ascertain whether they are a fit and proper person. It does not prejudice the Council's ability to take other actions.

7.1 Policy

The Council operates a policy for dealing with complaints, allegations and witnessed incidents of misconduct or infractions of a type which is not considered sufficiently serious in itself to justify a review of a person's suitability to hold a taxi or private hire driver, vehicle or operator licence, but which may give rise to such concerns if repeated or if regarded cumulatively with other such incidents.

Where complaints are substantiated for an applicable infraction, the council may consider issuing a formal written warning, particularly if it would be disproportionate or inappropriate to take formal legal action for the infraction. Such warnings shall be issued only in situations where the investigating officer (or a reviewing officer) is satisfied that the infraction was committed, such as if they personally observed the infraction being committed, or if the results of the investigation into a complaint lead them to conclude on the balance of probabilities that the infraction was committed.

If a driver, operator or vehicle proprietor should receive three warnings for any combination of applicable infractions within a rolling period of two years, they shall be referred to the Council's Licensing Sub-Committee, for a review hearing into that individual's suitability to continue to hold the relevant licence.

In conducting such reviews, the Sub-Committee will take account of all of the pertinent facts, and of any representation made by the driver, operator or proprietor before considering what action, if any, would be appropriate to take. The Sub-Committee may also have regard to any previous warnings or Committee determinations in reaching a decision. The options available to the Sub-Committee, depending upon the severity of the infractions and any previous record of misconduct, will typically be: to take no further action; to warn the licensee as to their future conduct; to suspend the licence for a specified period, or until such time as certain conditions have been satisfied; or to revoke the licence.

The existence of this guidance does not bind the Council, its officers or members to reach a particular decision in every case, and if the circumstances of a particular case support doing so it shall be open to the Council to select a different course of action in respect of that case, such as prosecution for a single infraction of a type listed below, or issuing an informal warning which does not count towards the cumulative total.

7.2 Strikes

The following lists of applicable infractions are non-exhaustive, and similar infractions may be regarded in the same way, even if not specifically referred to below

Applicable infractions – operators

- Failing to declare convictions / cautions in a timely manner
- Failing to produce operator licence on request
- Failing to maintain operators records complying with licence conditions, or to produce on request
- Touting of hire car services
- Abusive/improper behaviour by operator or staff
- Use of unapproved door signs on vehicles
- Obstruction of authorised officer or constable
- Making false statement to authorised officer or constable
- Making a false statement in connection with a licence or application

Applicable infractions – drivers / vehicle proprietors

- Failing to declare convictions / cautions / motoring endorsements in a timely manner
- Failing to report accident
- Failing to produce vehicle/driver licence on request
- Failing to wear driver badge
- Failing to produce vehicle insurance certificate on request
- Failing to return licence plate / badge (following expiry, suspension or revocation)
- Using vehicle which is mechanically unsound / unsafe / excessively soiled
- Using vehicle at a time when it would not satisfy compliance standards
- Charging more than metered fare / use of incorrect tariff / previously agreed fare
- Non-display of fare card
- Prolonging journeys
- Tampering with taximeter seal, altering taximeter with intent to mislead
- Meter, radio or other equipment installed in dangerous position
- Non-display / incorrect display of licence plates
- Non-display of roof sign / door signs
- Display of roof/taxi sign on vehicle other than a hackney carriage
- Failure to carry first aid kit / fire extinguisher in vehicle
- Abusive/improper behaviour
- Driver improperly attired
- Touting
- Misuse of taxi ranks (obstructing or hindering other driver, preventing hiring)
- Hackney carriage driver refusing fare from taxi rank
- Private hire vehicle stopping on taxi rank
- Leaving hackney carriage unattended on a taxi rank
- Failing to deliver lost property to police station
- Obstruction of authorised officer or constable
- Making false statement to authorised officer or constable
- Making a false statement in connection with a licence or application

Police infractions

In addition to work undertaken by Tewkesbury Borough Council officers, Gloucestershire Constabulary officers may issue warnings which will have the same effect under this policy, for any of the above infractions, or for the following general violations:

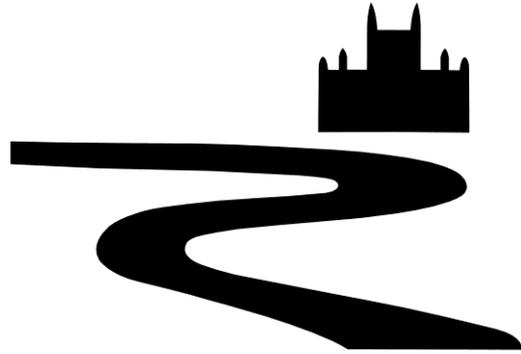
- Minor offences under Road Traffic Acts in respect of a hackney carriage or private hire vehicle
- Minor offences under the Road Vehicles (Construction and Use) Regulations in respect of a hackney carriage or private hire vehicle
- Minor public order offences in the course of use of a hackney carriage or private hire vehicle

In all cases, issue of a warning under this scheme by a police officer shall represent an alternative disposal option, and police shall retain the right to instead utilise any other disposal method (e.g. fixed penalty notice or legal proceedings) for any applicable offence where deemed appropriate.

More serious offences

The following offences are deemed sufficiently serious that they will be excluded from this scheme, with prosecution or committee referral likely to result from a single incident:

- Plying for hire without HCV licence (or driving or standing for hire)
- Using an unlicensed vehicle for private hire
- Driving a licensed vehicle without a valid HC/PH driver's licence
- Employing an unlicensed driver to drive a licensed vehicle
- Operating unlicensed vehicles, or operating vehicles without an operator's licence
- Refusing to accept booking to carry disabled passenger, or passenger with assistance dog
- Injuring or endangering any person or property through wanton and furious driving or other wilful misconduct
- Carrying excessive number of passengers



**Tewkesbury
Borough Council**

Hackney Carriage & Private Hire Policy

Policy Document 2 of 4

**Hackney Carriage Driver and
Vehicle Rules**

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Tewkesbury Borough Council

Hackney Carriage Rule Book

1. Drivers Licences

New Applications

- 1.1 A** The applicant must have been the holder of a valid driving licence (NOT being a provisional licence) authorising him/her to drive a motor car in the UK for at least 12 continuous months, immediately prior to the date of application.
- B** Licensed drivers must be able to communicate effectively with customers, Police or authorised officers and other road users. The applicant is expected to have a good command of the English language, both verbal and written and will be required to undertake an English proficiency test as approved by the Council and achieve a satisfactory score.
- 1.2** The applicant must be 21 years of age or over.
- 1.3** An application will not be granted unless the Licensing Authority is satisfied that the applicant is a fit and proper person to hold a Hackney Carriage licence.
- 1.4** Applicants for new licenses should have no more than three current penalty points on their DVLA licence.
- 1.5** To make an application, the applicant must:
- A.** complete and submit to the Licensing Authority the appropriate application form
 - B.** pay the appropriate fee
 - C.** Take a photograph at the Council offices upon application as follows:
 - Be taken against a light background so that the applicants features are distinguishable and contrast against the background
 - Show the full face, uncovered, without sunglasses. Head coverings are NOT allowed unless due to religious beliefs
 - D.** produce for examination a current valid DVLA driving licence, photo card or paper licence (if issued pre 1998), authorising him/her to drive a motor vehicle in the UK, showing his/her current home address. A licence check code must be generated and provided on the application form.
 - E.** complete an enhanced Disclosure and Barring Service application form and provide appropriate identity documentation. Please note that the applicant must visit the Licensing Authority in person when submitting their enhanced Disclosure and Barring Service application.

All applicants must sign up to the DBS online update service. If you've not yet applied for a DBS check, you can [register for the update service](#) using your application reference number (the 'form ref' on your application form). DBS must receive your application form within 28 days.

If you've already applied, you can register for the update service using your DBS certificate number. You must do this within 30 days of the certificate being issued.

- F. provide a satisfactory group 2 medical certificate from a GP that is no more than 1 month old on initial application.
 - G. provide evidence of successful completion of the Driving Assessment for Hackney Carriage and Private Hire vehicles from the Council's approved list which are currently Diamond Advance Test, Green Penny or The Blue Lamp Trust (this needs to be the pass certificate and not the booking form) or equivalent driving test as approved by the Council. If it is your intention to drive a wheelchair accessible vehicle then you would need to complete the enhanced driving assessment as this includes the wheelchair exercise or equivalent wheelchair accessible driving test as approved by the Council. If you have completed the enhanced driving assessment then you would need to produce both pass certificates. (Please note you will be required to take the Driving Assessment every ten years).
 - H. applicant must pass the Hackney Carriage Knowledge Test as set out by the Licensing Authority.
 - I. Provide Safeguarding Awareness training certificate.
 - J. Undertake the English proficiency test as approved by the Council and achieve a satisfactory score.
- 1.6 Applicants are required to notify the Licensing Authority of any convictions, cautions, fixed penalties or pending court cases during the application process (i.e. the time between the application being submitted and the licence being granted)

Additional Application Requirements for Foreign Nationals and Persons that have resided outside of the UK

- 1.7 The Licensing Authority must be satisfied that the applicant is a fit and proper person. In order to determine this, an applicant who is a foreign national or has resided outside of the UK must also do the following:
- A. complete an enhanced Disclosure and Barring Service application form (as detailed in the new applicant section above). To complete this application, the applicant must provide all addresses for the past 5 years including any addresses that are outside of the UK. The enhanced criminal record disclosure will show any convictions that have been committed in the UK.
 - B. in addition to the enhanced Disclosure and Barring Service application, the applicant must provide the Licensing Authority with a criminal record check from all countries outside of the UK that they have resided in from the age of 18 or, if those countries do not provide such information, a certificate of good conduct from the Embassy or Diplomatic Mission from all countries that they have resided in from the age of 18. This certificate must be an original and if in a foreign language must be accompanied by an original certified translation from a sworn translator. Any costs incurred to obtain such certification must be paid for by the applicant.
 - C. the Licensing Authority must be satisfied that the applicant holds an appropriate driving licence to drive in the UK. If the applicant has an exchangeable drivers licence for a non-EU/EEA designated country they need to convert it to a GB DVLA Licence prior to applying for a Hackney Carriage Drivers Licence. The convertible licence can be used to demonstrate they have been driving for 1 year before applying for a Hackney Carriage Drivers Licence.
 - D. an applicant must be eligible to work in the UK and, if appropriate, will need to provide evidence of this.
 - E. Applications will not be accepted from foreign nationals that hold a Student Visa.

Renewal Applications

- 1.8** A renewal application must be completed prior to the expiry date of the Hackney Carriage driver's licence. Drivers will be sent a reminder around 6 weeks before their licence is due to expire. Applications should be submitted at least 14 days prior to expiry, to ensure it can be assessed and issued on time. There is no period of grace if a renewal is submitted after the expiry date; failure to renew on time will require a new application being made including a criminal record check and medical report. It is an offence to drive a Hackney Carriage without the appropriate Hackney Carriage driver's licence. A Licence can be renewed up to one month before the current expiry date and the new licence will be post dated to the expiry date.
- 1.9** A licence will not be renewed without all supporting documentation being received. A Licence renewed after the expiry date will run from the date the new licence is issued. The period from expiry to actual renewal date will be unlicensed, and the driver may not drive a licensed vehicle during these periods.
- 1.10** To make a renewal application, the applicant must:
- A.** complete and submit to the Licensing Authority the appropriate renewal application form.
 - B.** pay the appropriate fee.
 - C.** Take a photograph at the Council offices upon application as follows:
 - Be taken against a light background so that the applicant's features are distinguishable and contrast against the background.
 - Show the full face, uncovered, without sunglasses. Head coverings are NOT allowed unless due to religious beliefs.
 - D.** produce for examination a current valid DVLA driving licence, photo card or paper licence (if issued pre 1998), authorising him/her to drive a motor vehicle in the UK, showing his/her current home address. A licence check code must be generated and provided on the application form.
 - E.** complete an enhanced Disclosure and Barring Service application form and provide appropriate identity documentation where appropriate.
 - F.** if appropriate, provide a satisfactory group 2 medical certificate from a GP that is no more than 3 months old from the date of renewal,
 - G.** an applicant must be eligible to work in the UK and, if appropriate, will need to provide evidence of this.

2. Vehicle Licences

- 2.1** Tewkesbury Borough Council does not grant a Hackney Carriage and Private Hire vehicle licence for any vehicle that is already licensed by another authority.

New Applications

- 2.2** To make an application the applicant must:
- A.** complete and submit to the Licensing Authority the appropriate application form.
 - B.** pay the appropriate fee.
 - C.** Provide proof of ownership, for example bill of sale, i.e. receipt for the money paid for the vehicle, invoice for the vehicle or hire purchase agreement in applicants' name.
 - D.** Produce a V5 Registration document (or new keepers supplement).

- E. produce an appropriate insurance certificate or cover note for Hackney Carriage purposes in accordance with the requirements of current legislation. If a cover note is offered, the full insurance certificate or further cover note should be presented within 2 working days of the cover note expiry date. Failure to do so will result in the licence being suspended.
- F. produce a current MOT certificate (unless the vehicle is less than 1 year old).
- G. produce a current Licensing Authority vehicle inspection certificate that is no more than 2 months old from date of application.
- H. produce proof of a meter inspection certificate from an approved installer that is dated to the Councils current tariff.
- I. Where lifting equipment is fitted to the vehicle a current certificate confirming that the equipment has been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307

Renewal Applications

- 2.3** A renewal application must be completed prior to the expiry date of the Hackney Carriage vehicle licence. Drivers will be sent a reminder around 6 weeks before their licence is due to expire. Applications should be submitted at least 14 days prior to expiry, to ensure it can be assessed and issued on time. There is no period of grace if a renewal is submitted after the expiry date. If the vehicle then does not meet any of the conditions in particular the age criteria then the vehicle will not be relicensed. It is an offence to drive a Hackney Carriage without the appropriate Hackney Carriage vehicle licence. A Licence can be renewed up to 1 month before the current expiry and the new licence will be post dated to the expiry date.
- 2.4** A Licence will not be renewed without all supporting documentation being received. An application to renew a licence that is submitted before expiry date but does not have all the supporting documentation will not be renewed, the licence will not be issued until such time that all documentation has been received. The period from expiry to actual issue date will be unlicensed, and the vehicle may not be used for Hackney Carriage purposes.
- 2.5** To make a renewal application the applicant must:
- A. complete and submit to the Licensing Authority the appropriate renewal application form.
 - B. pay the appropriate fee.
 - C. produce a V5 registration certificate in the applicants name.
 - D. produce an appropriate insurance certificate or cover note for Hackney Carriage purposes (public hire) in accordance with the requirements of current legislation. If a cover note is offered, the full insurance certificate or further cover note should be presented within 2 working days of the cover note expiry date. Failure to do so will result in the licence being suspended.
 - E. produce a current MOT certificate and advisory notice if applicable.
 - F. produce a current Licensing Authority vehicle inspection certificate that is no more than 2 months old from date of application. Where an MOT has been carried out within the last two months without the added vehicle inspection checks, a Licensing Officer can then check the cosmetic elements for an appropriate fee.
 - G. produce proof of a meter inspection certificate from date of application.
 - H. where lifting equipment is fitted to the vehicle a current certificate confirming that the equipment has been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307)

Transfer of Ownership Applications

2.6 To make a transfer application the applicant must:

- A.** complete and submit to the Licensing Authority the appropriate transfer application form.
- B.** pay the appropriate fee.
- C.** Produce a letter from the previous owner stating that they are no longer using the vehicle as a Hackney Carriage vehicle.
- D.** Produce a V5 Registration document (or new keepers supplement).
- E.** produce an appropriate insurance certificate or cover note for Hackney Carriage purposes in accordance with the requirements of current legislation. If a cover note is offered, the full insurance certificate or further cover note should be presented within 2 working days of the cover note expiry date. Failure to do so will result in the licence being suspended.
- F.** produce a current MOT certificate and advisory notice if applicable.
- G.** produce proof of a meter inspection certificate from an approved installer that is dated to the Councils current tariff.

Change of Vehicle Applications

2.7 To make a change of vehicle application the applicant must:

- A.** complete and submit to the Licensing Authority the appropriate change of vehicle application form.
- B.** pay the appropriate fee.
- C.** provide proof of ownership, for example bill of sale, i.e receipt for the money paid for the vehicle, invoice for the vehicle or hire purchase agreement in applicants' name.
- D.** produce a V5 Registration document (or new keepers supplement).
- E.** produce an appropriate insurance certificate or cover note for Hackney Carriage purposes in accordance with the requirements of current legislation. If a cover note is offered, the full insurance certificate or further cover note should be presented within 2 working days of the cover note expiry date. Failure to do so will result in the licence being suspended.
- F.** produce a current MOT certificate and advisory notice if applicable (unless the vehicle is less than 1 year old).
- G.** produce a current Licensing Authority vehicle inspection certificate that is no more than 2 months old from date of application. Where an MOT has been carried out within the last two months without the added vehicle inspection checks, a Licensing Officer can then check the cosmetic elements for an appropriate fee.
- H.** produce proof of a meter inspection certificate from an approved installer that is dated to the Councils current tariff.
- I.** return any plates previously issued by the Licensing Authority.

Change of Registration of Vehicle Applications

2.8 To make a change of registration application the applicant must:

- A.** complete and submit to the Licensing Authority the appropriate change of vehicle registration application form.
- B.** pay the appropriate fee.

- C. produce confirmation of change of registration from DVLA.
- D. produce an appropriate insurance certificate or cover note for Hackney Carriage purposes in accordance with the requirements of current legislation. If a cover note is offered, the full insurance certificate or further cover note should be presented within 2 working days of the cover note expiry date. Failure to do so will result in the licence being suspended.
- E. produce a current MOT certificate showing the new registration.
- F. return any plates previously issued by the Licensing Authority.

3. General Conditions

Delegated Powers

- 3.1 Tewkesbury Borough Council will always have regard to this policy document and its objectives in exercising its taxi and private hire licensing functions. However, each application or enforcement measure will be considered on its own merits, and the Council has discretion to make exceptions to this policy. Where the Council makes exceptions to this policy, clear reasons will be given for the exception being made.
- 3.2 All matters under this policy that need to be decided urgently and are either sensitive or contentious will be considered by the Head of Place.
- 3.3 All matters under this policy that need to be decided urgently that are non-sensitive or non-contentious will be considered by the Senior Licensing Officer.

Alteration of Existing Conditions

- 3.4 **A.** The Council may alter these conditions upon the giving of 28 days notice in writing to the licence holder that any of these conditions are deleted, any new ones inserted or existing conditions altered.
- B.** Any alteration of conditions under this condition will be consulted upon in the normal way and the licence holder will have the right to appeal to the Magistrates Court. The Licensing Committee will consider conditions, and any comments as a result of the consultation in the normal way.

Disciplinary Action

- 3.5 A breach of any of these general conditions may result in disciplinary action in accordance with the Council's approved enforcement policy, Hackney Carriage and Private Hire Regulatory Guidelines and use of the three strikes policy.
- 3.6 The Senior Licensing Officer may at any time considered necessary, refer a driver or operator to the Council's Licensing Sub-Committee to assess their suitability to be licensed. Such matters may include: discovery of a conviction or caution, complaints against the person, or three strikes accumulated within a 12 month period.
- 3.7 There is a power to immediately suspend or revoke a Hackney Carriage Driver's Licence on the grounds of public safety under Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976.

Complaints Procedure

- 3.8 Details of the Council's complaints procedure for Hackney Carriage and Private Hire can be found in the approved 'hackney carriage and private hire regulatory guidelines'.

Three Strikes Policy

- 3.9** The council operates a three strikes policy on private hire and dual driver licences to help ensure all drivers, owners and vehicles adhere to basic minimum standards, details of which can also be found in the Council's approved HC and PH regulatory guidelines.

Drivers

- 3.10** Licensed Hackney Carriage and Private Hire Drivers must ensure that they comply with the requirements of the Town Police Clauses Act 1847, The Local Government (Miscellaneous Provisions) Act 1976 and any other legislation applicable to their role.

Duration of Licence

- 3.11** A Drivers licence shall remain in force for up to 3 years.

Medical Criteria

- 3.12** Once a driver has reached the age of 45, he/she must have a medical every 5 years on renewal of the drivers licence until he/she reaches the age of 65. From the age of 65 he/she will have a medical annually.
- 3.13** If a driver develops any health or medical issues that may affect his/her fitness as a driver during the period of their licence; they must notify the Licensing Authority immediately and where appropriate the DVLA. Should this mean that a driver is required to cease driving for a period of time the Licensing Authority must receive written medical clearance from the drivers GP in order to resume driving. The GP undertaking the medical assessment will need to declare that they have seen the driver's medical records.

Requirement to Return Drivers Badge

- 3.14** If a driver is no longer licensed as a Hackney Carriage driver, he/she must return his/her licence, badge and any other related items to the Licensing Authority within 7 days.

Notification of Changes

- 3.15** If a driver moves house or changes his/her name, or if any other personal details included on the current licence changes, he/she must inform the Licensing Authority in writing within 7 days (see also 4.4).
- 3.16** If a driver leases a vehicle from another driver, he/she is obliged to inform the Licensing Authority, as to who owns the vehicle that they are driving and to produce a current insurance certificate naming both the owner and driver. The Licensing Authority must be notified in writing within 7 days if anything changes. The driver must also notify when they change operators or work for multiple Operators and identify which Operator(s) so that the Council can update their records.

Convictions, Cautions and Fixed Penalties

- 3.17 A.** If a driver receives any cautions, convictions, fixed penalties or has a court case pending, he/she MUST inform the Licensing Authority in writing within 7 days of being formally notified of any such charge, fixed penalty, summons or conviction, or in the case of a custodial sentence as soon as reasonably practical. (Even if it is from a Tewkesbury Borough Council department or another Local Authority you still need to notify Tewkesbury Borough Council's Licensing Team).

- B.** If a driver fails to notify of any cautions, convictions or fixed penalties within seven days of being formally notified of any such charge, then strikes will be issued in line with the Councils three strikes policy. If this is picked up on a renewal application and the number of strikes issued take the driver to three or more within a 12 month period, then the Licensing Team will not be in a position to renew the Hackney Carriage driver's badge. The Licensing Team will therefore refer the driver to the Licensing Sub-Committee for members to decide if they continue to be a fit and proper person.
- C.** Notification of accidents (please see 4.5).

Code of Conduct

3.18 A Hackney Carriage driver shall always act in accordance with the following:

- A.** wear the Hackney Carriage drivers badge provided by the Licensing Authority, in such a position and manner as to be plainly visible to the customer.
- B.** have a clean and tidy appearance.
- C.** behave in a polite and courteous manner in front of customers, Licensing Officers, Elected members, to each other and to other road users.
- D.** take reasonable precautions to ensure the comfort and safety of passengers including when they are getting in and out of the vehicle.
- E.** attend punctually at the appointed time and place when hired.
- F.** if requested, offer reasonable assistance with the loading and unloading of bags and luggage.
- G.** offer reasonable assistance to passengers with a disability when they are getting in and out of the vehicle and, if appropriate, to and from their starting point or destination. If assistance is declined then continue to act in a polite and courteous manner.
- H.** unless otherwise directed by the hirer, shall proceed to the given destination by the shortest or most economical route.
- I.** not eat or drink in the vehicle whilst working as a Hackney Carriage driver.
- J.** comply with a customer's request not to play any radio or other sound emitting device in the vehicle, other than for the purpose of sending or receiving messages in connection with the operation of the vehicle.
- K.** not play any radio or other sound producing device in the vehicle so loud that it causes a noise nuisance to anyone inside or outside of the vehicle.
- L.** not carry animals in the vehicle whilst working except for those carried in connection with the hirer of the vehicle. The driver has the discretion to decide whether he/she wants to carry animals belonging to a passenger in the vehicle, however, the animal may only be carried in the rear of the vehicle (see also 4.11).
- M.** it is an offence to drive a vehicle whilst using a mobile phone. All Hackney Carriage drivers who wish to operate a mobile phone must ensure that a suitable means of hands-free operation is installed in the vehicle.
- N.** remain vigilant and comply with local speed limits.
- O.** comply with Smokefree Legislation (please see 4.6 and 4.7).
- P.** provide the customer with a receipt if requested.

Lost Property

- 3.19** As soon as possible after a passenger has left the vehicle, the driver should check to make sure that no property has been left behind.
- 3.20** If a passenger does leave something in a vehicle and it is not claimed within 48 hours, the driver should take it to the Licensing Authority offices or to the local Police Station and get a receipt from the Duty Officer.

Vehicles

General

- 3.21** Owners may apply for a particular vehicle to be exempt from some or all of the licensing requirements contained in this policy. Such exemptions are likely to be granted only in exceptional circumstances and each case will be on its own merits.
- 3.22** All new Hackney Carriage Vehicles licensed in Tewkesbury Borough must be wheelchair accessible.
- 3.23** Where a Hackney Carriage Vehicle Licence has been issued to allow a wheelchair accessible vehicle or people carrier to be operated, then that vehicle licence is issued conditional on:-
 - A.** the vehicle always remaining as a wheelchair accessible vehicle or people carrier type; and
 - B.** the vehicle licence not being transferred to a non-wheelchair accessible vehicle or non-people carrier type.
- 3.24** Where a Hackney Carriage Vehicle Licence has been issued to allow a saloon type vehicle to be operated, then that vehicle may be replaced by a Saloon type vehicle at the end of its working life. The vehicle may be changed to a larger/different class of vehicle e.g. a wheelchair accessible or multi-person carrier and revert back to a saloon type at the owner's discretion.
- 3.25** The vehicle shall be of suitable size, shape and design to be safe and comfortable for passengers.
- 3.26** The vehicle must be right-hand drive and have a minimum of 4 doors.
- 3.27** The vehicle must be constructed and the doors open sufficiently wide as to allow easy access and egress from the vehicle and cause no inconvenience to passengers.
- 3.28** The licence holder shall ensure that all fittings and seats are such to be efficient, safe, tidy and clean.
- 3.29** The licence holder shall ensure the exterior of the vehicle is kept clean and in good repair.
- 3.30** The vehicle must be fitted with a spare wheel and tyre or space saver where supplied at the time of manufacture.
- 3.31** The vehicle must comply with all traffic regulations and legislation in force.
- 3.32** No changes to the specification, design or appearance shall be made to the vehicle without the prior approval of the Licensing Officer.
- 3.33** Any vehicle that has been modified since manufacture or is imported must have the appropriate approval certificate e.g. a Single Vehicle Approval Certificate.
- 3.34** Tinted windows will only be accepted if they were factory fitted.

Vehicle Age and Testing

- 3.35** Vehicles must comply with the following conditions in relation to age and length of service;

- A. vehicles will not be accepted for licensing on the first occasion after 10 years from the date of the first registration regardless of whether it was previously licensed with Tewkesbury Borough Council or anywhere else in the UK.
- B. the vehicle will not be re-licensed once it has reached its 14th anniversary from the date of the first registration.
- C. metropolitan type vehicles designed and constructed for the purpose of conveying members of the public are exempt from condition 3.35(A).
- D. all vehicles must be tested annually to the current Licensing Authority standards. Once the vehicle has reached the age of 6 years since the first date of registration, the vehicle shall be tested at 6 monthly intervals from the date of its last vehicle inspection test and submitted to the Licensing Authority until it has reached its service limit of 14 years since first date of registration.
- E. if the condition of the vehicle deteriorates below the acceptable standard set in the Licensing Authority vehicle test at anytime during the working life of the vehicle, the Licensing Officer reserves the right to withdraw the licence.

Colour of Vehicle

3.36 There is no requirement for Hackney Carriage vehicles to be a specific colour.

Seat Dimensions

3.37 Each passenger seat shall be as follows:

- A. Height – from the top of the seat cushion to the roof at the lowest point must not be less than 30 inches (762mm.)
- B. Knee space – the measurement between the front of each seat and the rear of the seat in front shall not be less than 10 inches (254mm).
- C. Width – the width of each passenger seat from side to side shall not be less than 16 inches (406mm). A seat designed for more than one passenger such as a rear seat must allow a width of 16 inches (406mm) for each passenger permitted.
- D. Depth – the measurement of a seat cushion between the front and back shall not be less than 18 inches (457mm).
- E. Dimensions for knee space and seat depth may be considered together subject to the approval of a Licensing Officer.

3.38 Occasional use fold down seats in purpose built wheelchair accessible vehicles are exempt from the seat dimension requirements listed above.

Fire Extinguisher and First Aid Kit

3.39 The vehicle licence holder shall ensure that a fire extinguisher is fitted and complies to British Standard BSEN3 and be of at least 1kg powder capacity and in date. A First Aid Kit must also be provided in the vehicle and be maintained and readily available for use. In line with HSE for Travelling workers your first aid box should contain the following minimum contents:

- 6 individually wrapped sterile plasters
- 2 individually wrapped triangular bandages
- 2 safety pins
- 1 large individually wrapped, sterile, unmedicated wound dressing
- individually wrapped, moist cleansing wipes

- Pair of disposable gloves (non-latex)
- HSE leaflet “Basic advice on first aid at work” which can be printed from the following link <http://www.hse.gov.uk/pubns/indg347.pdf>

CCTV Systems

3.40 CCTV systems (plus dash cams) may be installed into the vehicle with the approval of the Licensing Officer. All CCTV systems must comply with current legislation including data protection.

Luggage

3.41 All luggage must be stored securely and, if appropriate, the vehicle shall be fitted with suitable equipment to prevent luggage from entering the passenger compartment.

3.42 Roof racks and roof boxes are not permitted on Hackney Carriages without the express prior approval of the Licensing Officer.

3.43 Trailers must be approved by the Licensing Officer.

Seatbelts

3.44 Each passenger must have an appropriate, operational 3 point lap and shoulder seatbelt, see also 4.8 and 4.9 which refers to current seatbelt legislation.

Meters and Fares

3.45 Taxi meters must be inspected upon installation. The Hackney Carriage licence holder must then show to the council the meter check certificate dated to the Borough Councils current tariff Licensing Officer reserves the right to test on demand.

3.46 All Hackney Carriage licence holders shall ensure that the taxi meter is set to the current Licensing Authority tariff and that the taxi meter is on display within the vehicle in a prominent position and clearly visible to the hirer of the vehicle.

3.47 Fares to be calculated and charged as follows:

- A.** for journeys that wholly take place within the controlled district, the meter shall be running at no higher than the prescribed rate and the fare charged shall be no more than the fare showing on the meter. The meter shall not be engaged until the hirer is in the vehicle.
- B.** for journeys that either wholly or in part take place outside of the controlled district, the fare or method of calculation shall be agreed with the passenger prior to the commencement of the journey.

Tariff Card

3.48 All Hackney Carriage licence holders shall ensure that the current Licensing Authority tariff card is on display within the vehicle in a prominent position and clearly visible to the hirer of the vehicle.

Vehicle Licence Plates

3.49 A vehicle licence shall remain in force for a period of 1 year unless otherwise stated on the licence.

3.50 The exterior Hackney Carriage vehicle plate shall be securely fixed to the outside of the vehicle adjacent to the rear registration number plate and shall be displayed at all times that the licence is in force. The plate must be clearly visible at all times.

- 3.51** The interior Hackney Carriage vehicle plate shall be securely fixed inside the vehicle in a position where it is clearly visible to passengers travelling in the vehicle and shall be displayed at all times that the licence is in force.
- 3.52** The licence plates shall remain the property of the Licensing Authority and in the event that the licence is suspended, revoked or expired it shall be returned to the Licensing Authority within 7 days of notice being served on the licence holder by the Licensing Authority.

Roof Signs

- 3.53** Hackney Carriages must be fitted with an approved standardised roof sign as directed by the Licensing Officer with the exception of metropolitan type vehicles.
- 3.54** The roof sign MUST be displayed on the top of the vehicle showing the word "taxi" whilst working in its controlled district. The sign must be attached to the meter and must be illuminated when the vehicle is available for hire.

Door Panels

- 3.55** Hackney Carriages may display on both front doors, the approved recognition panel showing the words: Tewkesbury Borough Council, Licensed Vehicle Plate Number together with their own business name and telephone number.
- 3.56** Door panels must be a maximum size of 0.61m² (2sq.ft) e.g. 2ft x 1ft.

Advertising

- 3.57** Hackney Carriages are permitted to have whole vehicle body advertising livery for a single product or service subject to the prior approval of the Licensing Officer.

Stretched Limousines

- 3.58** Stretched limousines are not permitted to be licensed as Hackney Carriage vehicles.

4. Other Legislation

Number of Passengers Permitted

- 4.1** A Hackney Carriage shall not be permitted to carry more than 8 passengers.
- 4.2** A Hackney Carriage shall not carry any more passengers than the number stated on the vehicle licence plate.

Licensed Drivers

- 4.3** A Hackney Carriage is licensed as a Hackney Carriage and as such can only be driven by a person holding a Hackney Carriage drivers licence issued by the same Licensing Authority throughout the duration of that Hackney Carriage vehicle licence. Even with all signage removed; the vehicle is still a licensed vehicle and must not be driven by any other person than a licensed Hackney Carriage driver.

Change of Details

- 4.4** A holder of a Hackney Carriage vehicle licence must notify the Licensing Authority, in writing within 7 days, of any changes in the details of their Hackney Carriage licence including change of address and lease of the vehicle to another licensed driver.

Notification of Accidents

- 4.5** A holder of a Hackney Carriage vehicle licence must notify the Licensing Authority as soon as reasonably practicable and no longer than 72 hours after any accident that causes damage

materially affecting the safety, performance or appearance of a Hackney Carriage vehicle or the comfort and convenience of the passengers.

Smokefree Legislation

- 4.6** Hackney Carriage vehicles are smokefree vehicles by law and neither the driver nor the passengers are able to smoke in the vehicle at any time. This applies to all occupants including the driver at all times including for private use. This also includes E-Cigarettes, E-Liquid and any vaping products.
- 4.7** A No Smoking sign must be displayed in each compartment of the vehicle that shows the international “No Smoking” sign (a minimum of 70mm in diameter).

Seatbelt Legislation

- 4.8** The driver of a Hackney Carriage is responsible for ensuring that ALL passengers under the age of 14 are wearing the correct seatbelts or restraints.
- 4.9** A Hackney Carriage driver is only exempt from wearing a seatbelt whilst the Hackney Carriage is:
- A.** being used for seeking hire within the Licensing district.
 - B.** answering a call for hire.
 - C.** carrying fare paying passengers for hire.

Sale of Alcohol

- 4.10** The sale of alcohol is a licensable activity under the Licensing Act 2003. The sale of alcohol is prohibited in a moving vehicle. If a sale of alcohol is made as part of a booking arrangement, the sale must be authorised by either a premises licence or a temporary event notice in accordance with the Licensing Act 2003.

Guide Dogs

- 4.11** A Hackney Carriage driver must permit, without additional payment, guide, hearing and certain prescribed assistance dogs accompanying disabled people to be carried in the licensed vehicle unless an exemption certificate has been issued to that driver on medical grounds by the Licensing Authority.

Safeguarding

- 4.12** Human Trafficking is a crime relating to moving a vulnerable person from one place to another against their will. Child Sexual Exploitation is the sexual abuse of young people under 18 and usually involves relationships where young people receive something (food, accommodation, drugs, alcohol, affection, gifts, money) as a result of performing sexual acts. Criminals often use licensed vehicles and drivers to move these vulnerable people. Licensed drivers are the eyes and ears of their communities through the work they do and the contacts they have.

Licence holders can operate in positions of trust and it is vital that any relevant information about safeguarding issues is shared so that individuals are blocked from becoming taxi operators or holding any other kind of licence in different council areas across the county/country. Without effective information sharing, there is a real risk of unsuitable people being granted licences to operate which puts people at risk. We will share relevant information with Police and other authorities to protect children and vulnerable adults.

Licensed drivers' and operators' ability to spot the signs of human trafficking and having the knowledge of how to report their concerns can be a major help in preventing this crime. One sign on its own may not be significant, but several signs together should give cause for concern.

If the drivers and operators think that a passenger;

- a) does not know their home or work address
- b) allows others to speak for them when addressed directly
- c) lives or travels in a group, sometimes with other persons who do not speak the same language or not similar age
- d) are collected very early and/or returned late at night on a regular basis
- e) may have poor clothing for the work they are doing, and/or a lack of safety equipment
- f) they may look thin, ill or depressed
- g) has no cash of their own
- h) be known to work at a brothel and be frequently moved from one site to another.

They should contact Gloucestershire Constabulary by calling 101 (or if an emergency 999) or Crimestoppers on 0800 555 111

5. Glossary of Terms

Controlled District

5.1 The area covered by the Licensing Authority.

DfT

5.2 The Department for Transport determines the overall transport strategy for the UK.

DVLA

5.3 The Driver and Vehicle Licensing Agency is an executive agency of the Department for Transport (DfT). The DVLA's primary aims are to facilitate road safety and general law enforcement by maintaining registers of drivers and vehicles, and to collect vehicle excise duty (car tax).

Enhanced Disclosure and Barring Service

5.4 The Disclosure and Barring Service is a non- departmental public body of the Home Office and provides wide access to criminal record information through its disclosure service. The Disclosure and Barring Service (DBS) was formed by merging together the functions of the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) under the Protection of Freedoms Act 2012. It started functioning on 1 December 2012.

In addition the enhanced criminal record disclosure may also show any information held on local Police records considered by the Chief Constable or Chief Officer to be relevant to the position being sought and which can be disclosed without harming the interests of the prevention or detection of crime. It is entirely up to the Chief Constable or Chief Officer to decide what information is disclosed, if any, in these circumstances.

In respect of an enhanced criminal record disclosure, the Chief Constable or Chief Officer may also disclose information to the counter signatory only, that is information which will not form part of the actual disclosure. Such information will be sent separately to the counter signatory and will be withheld from the subject of the disclosure (that is the individual applicant) in the interests of the prevention or detection of crime.

Hackney Carriage/Taxi

- 5.5** A Hackney Carriage is also known as a Taxi. It is defined in section 38 of the Town Police Clauses Act 1847 and is a wheeled vehicle constructed or adapted to seat no more than 8 passengers that can carry passengers for hire and reward and may stand on a taxi rank or ply for hire in any street within the licensed district.

Taxi Rank/Stand

- 5.6** An approved rank, also known as a stand, within the controlled district where taxis can await the arrival of a hirer.

ISA

- 5.7** The Independent Safeguarding Authority (ISA) was a non-departmental public body that existed until 1 December 2012, when it has been merged with Criminal Records Bureau (CRB) into Disclosure and Barring Service (DBS).

Knowledge Test

- 5.8** An examination undertaken by applicants for a Hackney Carriage drivers licence to demonstrate the knowledge an applicant has regarding:

The rules and regulations which a Hackney Carriage driver MUST adhere to and the applicants good topographical knowledge in relation to the area in which they are applying to be licensed in.

The knowledge test must be passed by Hackney Carriage driver applicants prior to a drivers licence being granted.

Licensing Authority

- 5.9** The authority responsible for issuing licenses in relation to Hackney Carriage drivers and vehicles under the Town Police Clauses Act 1847 and Part II of The Local Government (Miscellaneous Provisions) Act 1976.

Licensing Authority Vehicle Test Certificate

- 5.10** Vehicle tests undertaken by garages within the controlled district that have been approved by the Licensing Authority. In addition to safety checks this includes condition of the vehicle inside and outside and that the vehicle meets the Licensing Authority conditions e.g. roof signs, plates etc.

Licensing Officer

- 5.11** An Officer of the Council authorised to act in accordance with Hackney Carriage legislation.

London Type Hackney Carriage

- 5.12** A vehicle that is recognisable by the public as being a purpose built Hackney Carriage such as used by the London black cabs. Examples include the LTI TX series and the Fairways FX series.

Medical (Group 2)

- 5.13** A medical examination undertaken to group 2 standards set out by DVLA. This is the same as the standard required from drivers of public service vehicles and heavy goods vehicles.

Premises Licence

- 5.14** A licence issued by a Licensing Authority under the Licensing Act 2003 which permits licensable activities which may include sale by retail of alcohol.

Single Vehicle Approval Certificate

- 5.15** The Single Vehicle Approval Certificate (SVA) scheme is a pre-registration inspection for cars and light goods vehicles that have not been type approved to British or European standards. The main purpose of the scheme is to ensure that these vehicles have been designed and constructed to modern safety and environmental standards before they can be used on public roads. The approval is issued by selected VOSA testing stations and may also be issued to vehicles that have been modified or converted.

Temporary Event Notice

- 5.16** A notice submitted to the Licensing Authority under the Licensing Act 2003 in relation to licensable activities that may include the sale by retail of alcohol. There are restrictions on temporary event notices including a limit on the number that can be issued per year.

DVSA

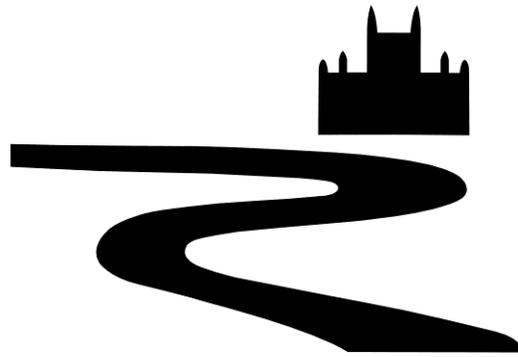
- 5.17** The Driver and Vehicle Standards Authority (DVSA) provides a range of licensing, testing and enforcement services with the aim of improving the roadworthiness standards of vehicles ensuring the compliance of operators and drivers, and supporting the independent Traffic Commissioners.

6. Facilities for the Disabled

- 6.1** Approved anchorages must be provided for the wheelchair and chairbound disabled person. These anchorages must be either chassis or floor linked and capable of withstanding approved dynamic or static tests. Restraints for wheelchair and occupant must be independent of each other. Anchorages must also be provided for the safe stowage of a wheelchair when not in use, whether folded or otherwise, if carried within the passenger compartment. All anchorages and restraints must be so designed that they do not cause any danger to other passengers.
- 6.2** The door and doorway must be so constructed as to permit an unrestricted opening across the doorway of at least 75cm. The minimum angle of the door when opened must be 90 degrees.
- 6.3** The clear height of the doorway must be not less than 1.2 metres.
- 6.4** Grab handles must be placed at door entrances to assist the elderly and disabled.
- 6.5** The top of the tread for any entrance must be at floor level of the passenger compartment. The outer edge of the floor at each entrance must be fitted with non-slip treads.
- 6.6** The vertical distance between the highest part of the floor and the roof in the passenger compartment must be not less than 1.3 metres.
- 6.7** Where seats are placed facing each other, there must be a minimum space of 42.5cm between any part of the front of a seat and any part of any other seat which faces it, provided adequate foot room is maintained at floor level. Where all seats are placed facing to the front of the vehicle, there must be clear space of at least 66cm in front of every part of each seat squab.
- 6.8** A ramp or ramps for the loading of a wheelchair and occupant must be available at all times. An adequate locking device must be fitted to ensure that the ramp/ramps do not slip or tilt when in use. Provision must be made for the ramps to be stowed safely when not in use.

6.9 All lifting equipment shall be installed, used, maintained and inspected in accordance with the Lifting Operations and Lifting Equipment Regulations 1998. Any lifting equipment fitted to vehicles that lifts people, requires to be inspected by a competent person every six months. A current certificate, issued by a competent person stating the equipment is safe requires to be submitted as part of any application or renewal. It is a requirement of the licence that no later than 6 months after the date of the original certificate a current certificate shall be forwarded the Council.

At no time shall lifting equipment be used without a valid certificate being in place



**Tewkesbury
Borough Council**

Hackney Carriage & Private Hire Policy

Document 3 of 4

Private Hire Driver and Vehicle Rules

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Tewkesbury Borough Council

PRIVATE HIRE RULE BOOK

1. Drivers Licences

New Applications

- 1.1 A** The applicant must have been the holder of a valid driving licence (NOT being a provisional licence) authorising him/her to drive a motor car in the UK for at least 12 continuous months immediately prior to the date of application.
- B** Licensed drivers must be able to communicate effectively with customers, Police or authorised officers and other road users. The applicant is expected to have a good command of the English language, both verbal and written and will be required to undertake an English proficiency test as approved by the Council and achieve a satisfactory score.
- 1.2** The applicant must be 21 years of age or over.
- 1.3** An application will not be granted unless the Licensing Authority is satisfied that the applicant is a fit and proper person to hold a Private Hire Driver's licence.
- 1.4** Applicants for new licenses should have no more than three current penalty points on their DVLA licence.
- 1.5** To make an application, the applicant must:
- A.** complete and submit to the Licensing Authority the appropriate application form
 - B.** ensure the private hire operator has signed the application to which the driver will work for.
 - C.** pay the appropriate fee
 - D.** Take a photograph at the Council offices upon application as follows:
 - Be taken against a light background so that the applicants features are distinguishable and contrast against the background.
 - Show the full face, uncovered, without sunglasses. Head coverings are NOT allowed unless due to religious beliefs.
 - E.** complete a Private Hire Knowledge Test (basic literacy and numeracy test) as set by the Licensing Authority. If applicants are concerned about the standard of literacy and numeracy required to successfully complete the test then applicants will be directed to attend a course in either literacy or numeracy or both before taking the test. Applicants who fail 3 times will not be allowed to re-sit the test until they can demonstrate that they have improved their literacy and numeracy skills.
 - F.** produce for examination a current valid DVLA driving licence photocard or paper licence (if issued pre 1998), authorising him/her to drive a motor vehicle in the UK, showing his/her current home address. A licence check must be generated and provided on the application form.
 - G.** complete an enhanced Disclosure and Barring Service application form and provide appropriate identity documentation. Please note that the applicant must visit the Licensing Authority in person when submitting their enhanced Disclosure and Barring Service application.

All applicants must sign up to the DBS online update service. If you've not yet applied for a DBS check, you can [register for the update service](#) using your application reference number

(the 'form ref' on your application form). DBS must receive your application form within 28 days.

If you've already applied, you can register for the update service using your DBS certificate number. You must do this within 30 days of the certificate being issued.

- H. provide a satisfactory group 2 medical certificate from a GP that is no more than 3 months old on initial application.
 - I. provide evidence of successful completion of the Driving Assessment for Hackney Carriage and Private Hire vehicles from the Council's approved list which are currently Diamond Advance Test, Green Penny or The Blue Lamp Trust (this needs to be the pass certificate and not the booking form) or equivalent driving test as approved by the Council. If it is your intention to drive a wheelchair accessible vehicle then you would need to complete the enhanced driving assessment as this includes the wheelchair exercise or equivalent wheelchair accessible driving test as approved by the Council. If you have completed the enhanced driving assessment then you would need to produce both pass certificates. (Please note you will be required to take the Driving Assessment every ten years).
 - J. Provide Safeguarding Awareness training certificate
 - K. Undertake the English proficiency test as approved by the Council and achieve a satisfactory score.
- 1.6 Applicants are required to notify the Licensing Authority of any convictions, cautions, fixed penalties or pending court cases during the application process (i.e. the time between the application being submitted and the licence being granted).

Additional Application Requirements for Foreign Nationals and Persons that have resided outside of the UK

- 1.7 The Licensing Authority must be satisfied that the applicant is a fit and proper person. In order to determine this, an applicant who is a foreign national or has resided outside of the UK must also do the following:
- A. complete an enhanced Disclosure and Barring Service application form (as detailed in the new applicant section above). To complete this application, the applicant must provide all addresses for the past 5 years including any addresses that are outside of the UK. The enhanced criminal record check will show any convictions that have been committed in the UK.
 - B. in addition to the enhanced Disclosure and Barring Service application, the applicant must provide the Licensing Authority with a criminal record check from all countries outside of the UK that they have resided in from the age of 18 or, if those countries do not provide such information, a certificate of good conduct from the Embassy or Diplomatic Mission from all countries that they have resided in from the age of 18. This certificate must be an original and if in a foreign language must be accompanied by an original certified translation from a sworn translator. Any costs incurred to obtain such certification must be paid for by the applicant.
 - C. the Licensing Authority must be satisfied that the applicant holds an appropriate driving licence to drive in the UK. If the applicant has an exchangeable drivers licence for a non-EU/EEA designated country they need to convert it to a GB DVLA Licence prior to applying for a Private Hire Drivers Licence. The convertible licence can be used to demonstrate they have been driving for 1 year before applying for a Private Hire Drivers Licence.
 - D. an applicant must be eligible to work in the UK and, if appropriate, will need to provide evidence of this.
 - E. Foreign Nationals that hold a Student Visa, are only permitted to work for up to 20 hours during term time (depending on the course studied). The private hire operator may be liable if the driver breaches the limitations of the student. Information may be shared with the Border Agency.

Renewal Applications

- 1.8** A renewal application must be completed prior to the expiry date of the Private Hire driver's licence. Drivers will be sent a reminder around 6 weeks before their licence is due to expire. Applications should be submitted at least 14 days prior to expiry, to ensure it can be assessed and issued on time. There is no period of grace if a renewal is submitted after the expiry date; failure to renew on time will require a new application being made including a criminal record check and medical report. It is an offence to drive a Private Hire Vehicle without the appropriate Private Hire driver's licence. A licence can be renewed up to one month before the current expiry date and the new licence will be post-dated to the expiry date.
- 1.9** A licence will not be renewed without all supporting documentation being received. A Licence renewed after the expiry date will run from the date the new licence is issued. The period from expiry to actual renewal date will be unlicensed, and the driver may not drive a licensed vehicle during these periods.
- 1.10** To make a renewal application, the applicant must:
- A.** complete and submit to the Licensing Authority the appropriate renewal application form.
 - B.** ensure the private hire operator has signed the application to which the driver will work for.
 - C.** pay the appropriate fee.
 - D.** Take a photograph at the Council offices upon application as follows:
 - Be taken against a light background so that the applicants features are distinguishable and contrast against the background.
 - Show the full face, uncovered, without sunglasses. Head coverings are NOT allowed unless due to religious beliefs.
 - E.** produce for examination a current valid DVLA driving licence photocard or paper licence (if issued pre 1998), authorising him/her to drive a motor vehicle in the UK, showing his/her current home address. A licence check must be generated and provided on the application form.
 - F.** complete an enhanced Disclosure and Barring Service application form and provide appropriate identity documentation where appropriate.
 - G.** If appropriate, provide a satisfactory group 2 medical certificate from a GP that is no more than 3 months old from the date of renewal.
 - H.** an applicant must be eligible to work in the UK and, if appropriate, will need to provide evidence of this.

2. Vehicle Licences

- 2.1** Tewkesbury Borough Council does not grant a private hire vehicle licence for any vehicle already licensed by another authority.

New Applications

- 2.2** To make an application the applicant must:
- A.** complete and submit to the Licensing Authority the appropriate application form.
 - B.** pay the appropriate fee.
 - C.** Provide proof of ownership, for example bill of sale, i.e. receipt for the money paid for the vehicle, invoice for the vehicle or hire purchase agreement in applicants' name.
 - D.** Produce a V5 Registration document (or new keepers supplement).
 - E.** produce an appropriate insurance certificate or cover note for Private Hire purposes in accordance with the requirements of current legislation. If a cover note is offered, the full insurance certificate or further cover note should be presented within 2 working days of the cover note expiry date. Failure to do so will result in the licence being suspended.
 - F.** produce a current MOT certificate (unless the vehicle is less than 1 year old).

- G. produce a current Licensing Authority vehicle inspection certificate that is no more than 2 months old from date of application.
- H. Where a meter is fitted, produce proof of a meter inspection certificate from an approved installer that is dated to the Councils current tariff.
- I. where lifting equipment is fitted to the vehicle a current certificate confirming that the equipment has been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307)

Renewal Applications

- 2.3** A renewal application must be completed prior to the expiry date of the Private Hire vehicle licence. Drivers will be sent a reminder around weeks before their licence is due to expire. Applications should be submitted at least 14 days prior to expiry, to ensure it can be assessed and issued on time. There is no period of grace if a renewal is submitted after the expiry date. If the vehicle then does not meet any of the conditions in particular the age criteria then the vehicle will not be relicensed. It is an offence to drive a Private Hire vehicle without the appropriate Private Hire vehicle licence. A Licence can be renewed up to 1 month before the current expiry and the new licence will be post-dated to the expiry date.
- 2.4** A Licence will not be renewed without all supporting documentation being received. An application to renew a licence that is submitted before expiry date but does not have all the supporting documentation will not be renewed, the licence will not be issued until such time that all documentation has been received. The period from expiry to actual issue date will be unlicensed, and the vehicle may not be used for Private Hire purposes.
- 2.5** To make a renewal application the applicant must:
- A. complete and submit to the Licensing Authority the appropriate renewal application form.
 - B. pay the appropriate fee.
 - C. produce a V5 registration certificate in the applicants name.
 - D. produce an appropriate insurance certificate or cover note for Private Hire purposes in accordance with the requirements of current legislation. If a cover note is offered, the full insurance certificate or further cover note should be presented within 2 working days of the cover note expiry date. Failure to do so will result in the licence being suspended.
 - E. produce a current MOT certificate and advisory notice if applicable.
 - F. produce a current Licensing Authority vehicle inspection certificate that is no more than 2 months old from date of application. Where an MOT has been carried out within the last two months without the added vehicle inspection checks, a Licensing Officer can then check the cosmetic elements for an appropriate fee.
 - G. where a meter is fitted, produce proof of a meter inspection certificate from date of application.
 - H. where lifting equipment is fitted to the vehicle a current certificate confirming that the equipment has been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307)

Transfer of Ownership Applications

- 2.6** To make a transfer application the applicant must:
- A. complete and submit to the Licensing Authority the appropriate transfer application form.
 - B. pay the appropriate fee.
 - C. Produce a letter from the previous owner stating that they are no longer using the vehicle as private hire vehicle.
 - D. Produce a V5 Registration document (or new keepers supplement).

- E. produce an appropriate insurance certificate or cover note for Private Hire purposes in accordance with the requirements of current legislation. If a cover note is offered, the full insurance certificate or further cover note should be presented within 2 working days of the cover note expiry date. Failure to do so will result in the licence being suspended.
- F. produce a current MOT certificate and advisory notice if applicable.
- G. Where a meter is fitted, produce proof of a meter inspection certificate from date of application.

Change of Vehicle Applications (*replacement vehicles licensed for less than 1 year*)

2.7 To make a change of vehicle application the applicant must:

- A. complete and submit to the Licensing Authority the appropriate change of vehicle application form.
- B. pay the appropriate fee.
- C. provide proof of ownership, for example bill of sale, i.e. receipt for the money paid for the vehicle, invoice for the vehicle or hire purchase agreement in applicants' name.
- D. Produce a V5 Registration document (or new keepers supplement).
- E. produce an appropriate insurance certificate or cover note for Private Hire purposes in accordance with the requirements of current legislation. If a cover note is offered, the full insurance certificate or further cover note should be presented within 2 working days of the cover note expiry date. Failure to do so will result in the licence being suspended.
- F. produce a current MOT certificate and advisory notice if applicable (unless the vehicle is less than 1 year old).
- G. produce a current Licensing Authority vehicle inspection certificate that is no more than 2 months old from date of application. Where an MOT has been carried out within the last two months without the added vehicle inspection checks, a Licensing Officer can then check the cosmetic elements for an appropriate fee.
- H. Where a meter is fitted, produce proof of a meter inspection certificate from an approved installer that is dated to the Council's current tariff.
- I. return any plates previously issued by the Licensing Authority.

Change of Registration of Vehicle Applications

2.8 To make a change of registration application the applicant must:

- A. complete and submit to the Licensing Authority the appropriate change of vehicle registration application form.
- B. pay the appropriate fee.
- C. produce confirmation of change of registration from DVLA.
- D. produce an appropriate insurance certificate or cover note for Private Hire purposes in accordance with the requirements of current legislation. If a cover note is offered, the full insurance certificate or further cover note should be presented within 2 working days of the cover note expiry date. Failure to do so will result in the licence being suspended.
- E. produce a current MOT certificate showing the new registration.
- F. return any plates previously issued by the Licensing Authority.

Exemptions to display plates/signage

2.9 Proprietors may request for an application to exempt the vehicle from the requirement to display identification licence plates and door panels through their private hire operator. Such applications are not considered lightly and more likely to be granted for high specification executive vehicles. Further details are provided in the Council's Private Hire Operators Rule Book.

3. General Conditions

Delegated Powers

- 3.1** Tewkesbury Borough Council will always have regard to this policy document and its objectives in exercising its taxi and private hire licensing functions. However, each application or enforcement measure will be considered on its own merits, and the Council has discretion to make exceptions to this policy. Where the Council makes exceptions to this policy, clear reasons will be given for the exception being made.
- 3.2** All matters under this policy that need to be decided urgently and are either sensitive or contentious will be considered by the Head of Place.
- 3.3** All matters under this policy that need to be decided urgently that are non-sensitive or non-contentious will be considered by the Senior Licensing Officer.

Alteration of Existing Conditions

- 3.4 A.** The Council may alter these conditions upon the giving of 28 days notice in writing to the licence holder that any of these conditions are deleted, any new ones inserted or existing conditions altered.
- B.** Any alteration of conditions under this condition will be consulted upon in the normal way and the licence holder will have the right to appeal to the Magistrates Court. The Licensing Committee will consider conditions, and any comments as a result of the consultation in the normal way.

Disciplinary Action

- 3.5** A breach of any of these general conditions may result in disciplinary action in accordance with the Council's approved enforcement policy, Hackney Carriage and Private Hire Regulatory Guidelines and use of the penalty points totting up procedure.
- 3.6** The Senior Licensing Officer may at any time considered necessary, refer a driver or operator to the Council's Licensing Sub-Committee to assess their suitability to be licensed. Such matters may include: discovery of a conviction or caution, complaints against the person, accumulation of totting up penalty points on the Council's internal procedure, at least one warning within a 12 month period.
- 3.7** There is a power to immediately suspend or revoke a Private Hire Driver's licence on the grounds of public safety under Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976.

Complaints Procedure

- 3.8** Details of the Council's complaints procedure for Hackney Carriage and Private Hire can be found in the approved 'hackney carriage and private hire regulatory guidelines'.

Three Strikes policy

- 3.9** The council operates a three strikes policy on private hire and dual driver licences to help ensure all drivers, owners and vehicles adhere to basic minimum standards, details of which can also be found in the Council's approved HC and PH regulatory guidelines.

DRIVERS

Duration of Licence

- 3.10** A Drivers licence shall remain in force for up to 3 years.

Medical Criteria

- 3.11** Once a driver has reached the age of 45, he/she must have a medical every 5 years on renewal of the drivers licence until he/she reaches the age of 65. From the age of 65 he/she will have a medical annually.

- 3.12** If a driver develops any health or medical issues that may affect his/her fitness as a driver during the period of their licence, they must notify the Licensing Authority immediately and where appropriate the DVLA. The Licensing Authority must receive written medical clearance from the driver's GP in order to resume driving. The GP undertaking the medical assessment will need to declare that they have seen the driver's medical records.

Requirement to Return Drivers Badge

- 3.13** If a driver is no longer licensed as a Private Hire driver, he/she must return his/her licence, badge and any other related items to the Licensing Authority within 7 days.

Notification of Changes

- 3.14** If a driver moves house or changes his/her name, or if any other personal details included on the current licence changes, he/she must inform the Licensing Authority in writing within 7 days (see also 4.4).
- 3.15** If a driver leases a vehicle from another driver, he/she is obliged to inform the Licensing Authority of who is the owner of the vehicle that they are driving and to produce a current insurance certificate naming both the owner and driver. The Licensing Authority must be notified in writing within 7 days if anything changes. The driver must also notify when they change Operators or work for multiple operators and identify which Operator(s) so that the Council are able to update their records.

Convictions, Cautions and Fixed Penalties

- 3.16 A.** If a driver receives any cautions, convictions, fixed penalties or has a court case pending, he/she MUST inform the Licensing Authority in writing within 7 days of being formally notified of any such charge, fixed penalty, summons or conviction, or in the case of a custodial sentence as soon as reasonably practical. (Even if it is from a Tewkesbury Borough Council department or another Local Authority you still need to notify Tewkesbury Borough Council's Licensing Team).
- B.** If a driver fails to notify of any cautions, convictions or fixed penalties within seven days of being formally notified of any such charge, then penalty points will be issued. If this is picked up on a renewal application and these penalty points issued take the driver over 12 within a 12 month period, then the Licensing Team will not be in a position to renew the Private Hire driver's badge. The Licensing Team will therefore refer the driver to the Licensing Sub-Committee for members to decide if they continue to be a fit and proper person.
- C.** Notification of accidents (please see 4.7).

Code of Conduct

- 3.17** A Private Hire driver shall always act in accordance with the following:
- A.** wear the Private Hire drivers badge provided by the Licensing Authority, in such a position and manner as to be plainly visible to the customer.
 - B.** have a clean and tidy appearance.
 - C.** behave in a polite and courteous manner in front of customers, Licensing Officers, Elected members, to each other and to other road users.
 - D.** take reasonable precautions to ensure the comfort and safety of passengers including when they are getting in and out of the vehicle.
 - E.** attend punctually at the appointed time and place when hired.
 - F.** if requested, offer reasonable assistance with the loading and unloading of bags and luggage.
 - G.** offer reasonable assistance to passengers with a disability when they are getting in and out of the vehicle and, if appropriate, to and from their starting point or destination. If assistance is declined then continue to act in a polite and courteous manner.
 - H.** unless otherwise directed by the hirer, shall proceed to the given destination by the shortest or most economical route.

- I. not eat or drink in the vehicle whilst working as a Private Hire Driver.
- J. comply with a customer's request not to play any radio or other sound emitting device in the vehicle, other than for the purpose of sending or receiving messages in connection with the operation of the vehicle.
- K. not play any radio or other sound producing device in the vehicle so loud that it causes a noise nuisance to anyone inside or outside of the vehicle.
- L. not carry animals in the vehicle whilst working except for those carried in connection with the hirer of the vehicle. The driver has the discretion to decide whether he/she wants to carry animals belonging to a passenger in the vehicle, however, the animal may only be carried in the rear of the vehicle.
- M. it is an offence to drive a vehicle whilst using a mobile phone. All Private Hire drivers who wish to operate a mobile phone must ensure that a suitable means of hands-free operation is installed in the vehicle.
- N. remain vigilant and comply with local speed limits.
- O. Comply with Smokefree Legislation (please see 4.8 and 4.9).
- P. Provide the customer with a receipt if requested.

Lost Property

- 3.18 As soon as possible after a passenger has left the vehicle, the driver should check to make sure that no property has been left behind.
- 3.19 If a passenger does leave something in a vehicle and it is not claimed within 48 hours, the driver should take it to the Licensing Authority offices or to the local Police station and obtain a receipt from the Duty Officer.

VEHICLES

General

- 3.20 Owners may apply for a particular vehicle to be exempt from some or all of the licensing requirements contained in this policy. Such exemptions are likely to be granted only in exceptional circumstances and each case will be on its own merits. Classic or Specialised vehicles are more likely to fall into this category.
- 3.21 Metropolitan type vehicles e.g. Black Cab /TX Series will not be accepted for licensing as a private hire vehicle.
- 3.22 The vehicle shall be of suitable size, shape and design to be safe and comfortable for passengers (See also paragraphs 3.34 and 3.35).
- 3.23 The vehicle must be right-hand drive and have a minimum of 4 doors.
- 3.24 The vehicle must be constructed and the doors open sufficiently wide as to allow easy access and egress from the vehicle and cause no inconvenience to passengers.
- 3.25 The license holder shall ensure that all fittings and seats are such as to be efficient, safe, tidy and clean.
- 3.26 The licence holder shall ensure the exterior of the vehicle is kept clean and in good repair.
- 3.27 The vehicle must be fitted with a spare wheel and tyre or space saver where supplied at the time of manufacture.
- 3.28 The vehicle must comply with all traffic regulations and legislation in force.
- 3.29 No changes to the specification, design or appearance shall be made to the vehicle without the prior approval of the Licensing Officer.
- 3.30 Any vehicle that has been modified since manufacture or is imported must have the appropriate approval certificate e.g. a Single Vehicle Approval Certificate.

- 3.31 Tinted windows will only be accepted if it meets manufacture specification and comply with current legislation.

Vehicle Age and Testing

- 3.32 Vehicles must comply with the following conditions in relation to age and length of service:

- A. vehicles will not be accepted for licensing on the first occasion after 10 years from the date of the first registration regardless of whether it was previously licensed by Tewkesbury Borough Council or anywhere else in the UK.
- B. the vehicle will not be re-licensed once it has reached its 14th anniversary from the date of the first registration.
- C. all vehicles must be tested annually to the current Licensing Authority standards. Once the vehicle has reached the age of 6 years since the first date of registration the vehicle shall be tested at 6 monthly intervals from the date of its last vehicle inspection test and submitted to the Licensing Authority until it has reached its service limit of 14 years since first date of registration.
- D. Stretched limousines and other specialised vehicles will be considered under their own merits.
- E. if the condition of the vehicle deteriorates below the acceptable standard set in the Licensing Authority vehicle test at anytime during the working life of the vehicle, the Senior Licensing Officer reserves the right to withdraw the licence.

Colour of Vehicle

- 3.33 All Private Hire vehicles can be of any colour.

Seat Dimensions

- 3.34 Each passenger seat shall be as follows:

- A. Height – from the top of the seat cushion to the roof at the lowest point must not be less than 30 inches (762mm).
- B. Knee space – the measurement between the front of each seat and the rear of the seat in front shall not be less than 10 inches (254mm).
- C. Width – the width of each passenger seat from side to side shall not be less than 16 inches (406mm). A seat designed for more than one passenger such as a rear seat must allow a width of 16 inches (406mm) for each passenger permitted.
- D. Depth – the measurement of a seat cushion between the front and back shall not be less than 18 inches (457mm).
- E. Dimensions for knee space and seat depth may be considered together subject to the approval of a Senior Licensing Officer.

- 3.35 Occasional use fold down seats in purpose built wheelchair accessible vehicles are exempt from the seat dimension requirements listed above.

Fire Extinguisher and First Aid Kit

- 3.36 The vehicle licence holder shall ensure that a fire extinguisher is fitted and complies to British Standard BSEN3 and be of at least 1kg powder capacity and in date. A First Aid Kit must also be provided in the vehicle and be maintained and readily available for use. In line with HSE for Travelling workers your first aid box should contain the following minimum contents:

- 6 individually wrapped sterile plasters
- 2 individually wrapped triangular bandages
- 2 safety pins
- 1 large individually wrapped, sterile, unmedicated wound dressing
- individually wrapped, moist cleansing wipes
- Pair of disposable gloves (non-latex)
- HSE leaflet “Basic advice on first aid at work” which can be printed from the following link <http://www.hse.gov.uk/pubns/indg347.pdf>

CCTV Systems

- 3.37 CCTV systems (plus dash cams) may be installed into the vehicle with the approval of the Senior Licensing Officer. All CCTV systems must comply with current legislation including data protection.

Luggage

- 3.38 All luggage must be stored securely and, if appropriate, the vehicle shall be fitted with suitable equipment to prevent luggage from entering the passenger compartment.
- 3.39 Roof racks and roof boxes are permitted on Private Hire vehicles subject to the approval of the Senior Licensing Officer.
- 3.40 Trailers must be approved by the Senior Licensing Officer.

Seatbelts

- 3.41 Each passenger must have an appropriate, operational 3 point lap and shoulder seatbelt, see also 4.8 and 4.9 which refers to current seatbelt legislation.

Meters and Fares

- 3.42 If a Taximeter is fitted, the Private Hire licence holder must ensure that the taximeter is on display within the vehicle in a prominent position and clearly visible to the hirer of the vehicle.
- 3.43 Where a Taximeter is fitted, the Private Hire licence holder shall ensure that a tariff card is on display within the vehicle in a prominent position and clearly visible to the hirer of the vehicle.
- 3.44 If a Taximeter is fitted it must be inspected upon installation. The Private Hire licence holder must then show to the council the meter check certificate calibrated to the tariff as shown on their tariff card. The Senior Licensing Officer reserves the right to test on demand.

Vehicle Licence Plates

- 3.45 Vehicle licences shall remain in force for a period of 1 year unless otherwise stated on the licence.
- 3.46 All vehicle licence plates must be displayed on the vehicle at all times. The only exceptions are when it's parked outside the home address to which the vehicle is licensed, or when there is plate/panel exemption in force.
- 3.47 The exterior rear Private Hire vehicle plate shall be securely fixed to the outside of the vehicle adjacent to the rear registration number plate and shall be displayed at all times that the licence is in force. The plate must be clearly visible at all times.
- 3.48 The exterior front Private Hire vehicle plate shall be securely fixed to the outside of the vehicle adjacent to the front registration number plate and shall be displayed at all times that the licence is in force. The plate must be clearly visible at all times.
- 3.49 The interior Private Hire vehicle plate shall be securely fixed inside the vehicle on the windscreen where it is clearly visible to passengers travelling inside the vehicle and visible from outside the vehicle and shall be displayed at all times that the licence is in force.
- 3.50 The licence plates shall remain the property of the Licensing Authority and in the event that the license is suspended, revoked or expired it shall be returned to the Licensing Authority within 7 days of notice being served on the licence holder by the Licensing Authority.

Roof Signs

- 3.51 Private Hire vehicles are not permitted to have roof-mounted signs.

Additional Signs

- 3.52 A sticker must be displayed on all Private Hire vehicles to inform passengers that if the Private Hire driver knowingly accepts a fare that has not been pre-booked, the driver's insurance may be invalid.

Door Panels

- 3.54** Door panels must be displayed on the vehicle at all times. The only exceptions are when it's parked outside the address to which the vehicle is licensed, during personal use outside the Borough boundaries or when there is plate/panel exemption in force.
- 3.55** Door Panels shall be displayed in a conspicuous location on both sides of a Private Hire vehicle and must be rectangular in shape. They must be approved by the Senior Licensing Officer prior to display and shall be printed with black lettering on a yellow background.
- 3.56** The following information in **bold** must be provided on the panel: -
Tewkesbury Borough Council
 [Company Trade Name] **Private Hire**
Pre-Bookings Only
 [Telephone]
 With the words in 'square' brackets above to be optional. As a guideline, the minimum font size of the mandatory wording on the door panel is 30mm.
- 3.57** The company name on the door panels must be exactly the same as the name on the operator licence. The word "taxi", "cab" or "hackney carriage" must not be used. No alternative words or spellings, such as "Kab", which would have the effect of leading the public to believe that a vehicle is a hackney carriage available for hire, may be used.

Advertising

- 3.58** Advertising on or in the vehicle of any company or subject is not permitted apart from advertising of the Private Hire Company that the vehicle is operating under on door panels only. Such advertising must include the words 'Pre-Booking only'. (See separate conditions for door panels)

Stretched Limousines

- 3.59** Stretched Limousines must meet the standard Tewkesbury Private Hire conditions in accordance with the specific conditions below:
- A.** The vehicle may be left or right hand drive and be of any colour.
 - B.** As a limousine is a vehicle that has been the subject of a major conversion or modification, evidence must be provided to show that there is a voluntary SVA (Single Vehicle Approval) issued by a VOSA testing station covering such conversion or modification.
 - C.** The applicant must provide written evidence that the vehicle has undergone one of the following:-
 - i.** A conversion by a Ford Qualified Vehicle Modifier (QVM Certificate) or a Cadillac Master Coachbuilder (CMC Certificate); or
 - ii.** An equivalent conversion programme (the onus will be on the applicant to demonstrate that if the conversion is not Ford or Cadillac approved, that the standard of the conversion is at least to QVM or CMC standard).
- 3.60** A limousine must have appropriate operational seat belts for all passengers that the vehicle is licensed to carry.

Wheelchair accessible vehicles will be exempt from the above policy.

- 3.61** Licensing Officers have the discretion to licence a vehicle that does not meet the above age policy in the case of elite vehicles such as purpose built Hackney Carriage cab, Rolls Royce or similar **Vehicles** provided the vehicle is in excellent condition. Any such requests for licensing a vehicle should be made in writing by email.

Existing licence holders that have a vehicle over 15 years old at the time this policy is adopted will have a 2 year period to replace it with a vehicle that meets the age policy. After the 2 year period any renewal application for a vehicle that does not meet the age policy will be refused.

Converted Vehicles (including wheelchair accessible)

3.62 A vehicle that has been converted since manufacture, for example, many wheelchair accessible vehicles, must provide one of the following M1 approvals following conversion:

- European Whole Vehicle Type approval (ECWVTA)
- UK Low volume approval (UKLVTA)
- UK Individual Vehicle Approval (IVA)
- Certificate of Initial Fitness (COIF)
- UK Voluntary Standard Individual Vehicle Approval

3.63 Vehicles converted from vans which have a type approval other than M1 will not be acceptable unless they are presented with approved M1 certification for the resultant vehicle.

Please note that to achieve Voluntary Standard Individual Vehicle Approval VOSA are likely to require valid certification that all alterations such as seat fitting and tracking are M1 compliant. There is information about voluntary approvals on the Government's website.

<https://www.gov.uk/vehicle-approval/voluntary-approval>

Where a wheelchair accessible vehicle has been converted by a bona fide converter, and the vehicle has then been registered with DVLA after conversion, the Council will accept that this vehicle will have passed appropriate approval in order to be registered and so the vehicle will be accepted for licensing without need for further documentation unless it appears that further conversions have been made to the vehicle following registration.

3.64 For vehicles that have been converted and currently licensed with Tewkesbury Borough Council, an IVA will be required by 1 April 2020.

Wheelchair Accessible Vehicles

3.65 Where a vehicle is utilised for the carriage of passengers in a wheelchair, the following conditions shall apply:

- The vehicle must be capable of accommodating a wheelchair user in a wheelchair so that the wheelchair faces forwards. The wheelchair must not be placed sideways
- Access to and egress from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus
- **Wheelchair internal anchorage** must be of the manufacturer's design and construction and secured in such a position as not to obstruct any emergency exit
- A **suitable restraint** must be available for the occupant of a wheelchair
- Access ramps or lifts to the vehicle must be securely fixed prior to use and be able to support the wheelchair, occupant and helper
- Ramps and lifts must be securely stored in the vehicle before it may move off
- When deployed, **ramps must run flush** with the interior floor level
- Any **equipment fitted to the Hackney Carriage or Private Hire vehicle for lifting a wheelchair** into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307). Any such equipment must be maintained in good working order and be available for use at all times

4. Other Legislation

Number of Passengers Permitted

4.1 A Private Hire vehicle shall not be permitted to carry more than 8 passengers.

4.2 A Private Hire vehicle shall not carry any more passengers than the number stated on the vehicle licence plate.

Licensed Drivers

4.3 A Private Hire vehicle is licensed as a Private Hire vehicle and as such can only be driven by a person holding a Private Hire or Hackney Carriage drivers licence issued by the same Licensing Authority throughout the duration of that Private Hire vehicle licence. Even with all signage

removed, the vehicle is still a licensed vehicle and must not be driven by any other person than a licensed Private Hire or Hackney Carriage driver.

- 4.4 It is an offence under the Town Police Clauses Act 1847, to ply for hire without a Hackney Carriage Licence. As such private hire drivers should not accept any fare that has not been pre-booked through the operator, to do so would invalidate the insurance. Standing for hire is prohibited as well as accepting flag downs. A private hire driver and vehicle is prohibited from waiting or dropping off on a designated Hackney Carriage (taxi) rank and is an offence under The Local Government (Miscellaneous Provisions) Act
- 4.5 Licensed Private Hire Drivers must ensure that they comply with the requirements of the Town Police Clauses Act 1847, The Local Government (Miscellaneous Provisions) Act 1976 and any other legislation applicable to their role.

Change of Details

- 4.6 A holder of a Private Hire vehicle licence must notify the Licensing Authority, in writing within 7 days, of any changes in the details of their Private Hire licence including change of address and lease of the vehicle to another licensed driver.

Notification of Accidents

- 4.7 A holder of a Private Hire vehicle licence must notify the Licensing Authority as soon as reasonably practicable and no longer than 72 hours after any accident that causes damage materially affecting the safety, performance or appearance of a Private Hire vehicle or the comfort and convenience of the passengers.

Smokefree Legislation

- 4.8 Private Hire vehicles are smokefree vehicles by law and neither the driver nor the passengers are able to smoke in the vehicle at any time. This applies to all occupants including the driver at all times including for private use. This also includes E-Cigarettes, E-Liquid and any vaping products.
- 4.9 A No Smoking sign must be displayed in each compartment of the vehicle that shows the international "No Smoking" sign (a minimum of 70mm in diameter).

Seatbelt Legislation

- 4.10 The driver of a Private Hire vehicle is responsible for ensuring that ALL passengers under the age of 14 are wearing the correct seatbelts or restraints.
- 4.11 A Private Hire vehicle driver is only exempt from wearing a seatbelt whilst the Private Hire vehicle is carrying fare paying passengers for hire.

Sale of Alcohol

- 4.12 The sale of alcohol is a licensable activity under the Licensing Act 2003. The sale of alcohol is prohibited in a moving vehicle. If a sale of alcohol is made as part of a booking arrangement, the sale must be authorised by either a premises licence or a temporary event notice in accordance with the Licensing Act 2003.

Guide Dogs

- 4.13 Private Hire drivers must permit, without additional payment, guide, hearing and certain prescribed assistance dogs accompanying disabled people to be carried in the licensed vehicle unless an exemption certificate has been issued to that driver on medical grounds by the Licensing Authority.

5. Glossary of Terms

Controlled District

- 5.1 The area covered by the Licensing Authority.

DfT

- 5.2 The Department for Transport determines the overall transport strategy for the UK.

DVLA

- 5.3** The Driver and Vehicle Licensing Agency is an executive agency of the Department for Transport (DfT). The DVLA's primary aims are to facilitate road safety and general law enforcement by maintaining registers of drivers and vehicles, and to collect vehicle excise duty (car tax).

Enhanced Disclosure and Barring Service

- 5.4** The Disclosure and Barring Service is a non- departmental public body of the Home Office and provides wide access to criminal record information through its disclosure service. The Disclosure and Barring Service (DBS) was formed by merging together the functions of the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) under the Protection of Freedoms Act 2012. It started functioning on 1 December 2012.

The enhanced criminal record disclosure contains details of both spent and unspent convictions and any cautions from England and Wales, held on central records or it will indicate that there are no such matters held on central records.

In addition the enhanced criminal record disclosure may also show any information held on local Police records considered by the Chief Constable or Chief Officer to be relevant to the position being sought and which can be disclosed without harming the interests of the prevention or detection of crime. It is entirely up to the Chief Constable or Chief Officer to decide what information is disclosed, if any, in these circumstances.

In respect of an enhanced criminal record disclosure, the Chief Constable or Chief Officer may also disclose information to the counter signatory only, which is information which will not form part of the actual disclosure. Such information will be sent separately to the counter signatory and will be withheld from the subject of the disclosure (that is the individual applicant) in the interests of the prevention or detection of crime.

ISA

- 5.5** The Independent Safeguarding Authority (ISA) was a non-departmental public body that existed until 1 December 2012, when it has been merged with Criminal Records Bureau (CRB) into Disclosure and Barring Service (DBS)

5.6 Licensing Authority

The authority responsible for issuing licenses in relation to Private Hire drivers and vehicles under the Town Police Clauses Act 1847 and Part II of The Local Government (Miscellaneous Provisions) Act 1976.

5.7 Licensing Authority Vehicle Test Certificate

Vehicle test undertaken by garages within the controlled district that have been approved by the Licensing Authority. In addition to safety checks this includes condition of the vehicle inside and outside and that the vehicle meets the Licensing Authority conditions e.g. roof signs, plates etc.

5.8 Senior Licensing Officer

An Officer of the Council authorised to act in accordance with Private Hire legislation.

5.9 Literacy and Numeracy Test (Private Hire Knowledge Test)

An examination undertaken by applicants for a Private Hire drivers licence to demonstrate the knowledge an applicant has regarding:-

- Basic map reading
- Contents of Driver and Vehicle Rule Book
- Calculation of basic fares and change in GB £'s
- Basic knowledge of the Road Traffic Regulations

Candidates who do not pass on the first occasion will be allowed to re-sit the test up to twice within a 12 month period. Candidates who fail 3 times will not be allowed to re-sit the test until they can

demonstrate that they have improved their literacy and numeracy skills through the Adult Education Department.

5.10 Medical (group 2)

A medical examination undertaken to group 2 standards set out by DVLA. This is the same as the standard required from drivers of public service vehicles and heavy goods vehicles.

5.11 Premises Licence

A licence issued by a Licensing Authority under the Licensing Act 2003 which permits licensable activities which may include sale by retail of alcohol.

5.12 Single Vehicle Approval Certificate

The Single Vehicle Approval Certificate (SVA) scheme is a pre-registration inspection for cars and light goods vehicles that have not been type approved to British or European standards. The main purpose of the scheme is to ensure that these vehicles have been designed and constructed to modern safety and environmental standards before they can be used on public roads. The approval is issued by selected VOSA testing stations and may also be issued to vehicles that have been modified or converted.

5.13 Temporary Event Notice

A notice submitted to the Licensing Authority under the Licensing Act 2003 in relation to licensable activities that may include the sale by retail of alcohol. There are restrictions on temporary event notices including a limit on the number that can be issued per year.

5.14 DVSA

The Driver and Vehicle Standards Authority (DVSA) provides a range of licensing, testing and enforcement services with the aim of improving the roadworthiness standards of vehicles ensuring the compliance of operators and drivers, and supporting the Independent Traffic Commissioners.

6 FACILITIES FOR THE DISABLED

- 6.1** Approved anchorages must be provided for the wheelchair and chairbound disabled person. These anchorages must be either chassis or floor linked and capable of withstanding approved dynamic or static tests. Restraints for wheelchair and occupant must be independent of each other. Anchorages must also be provided for the safe stowage of a wheelchair when not in use, whether folded or otherwise, if carried within the passenger compartment. All anchorages and restraints must be so designed that they do not cause any danger to other passengers.
- 6.2** The door and doorway must be so constructed as to permit an unrestricted opening across the doorway of at least 75cm. The minimum angle of the door when opened must be 90 degrees.
- 6.3** The clear height of the doorway must be not less than 1.2 metres.
- 6.4** Grab handles must be placed at door entrances to assist the elderly and disabled.
- 6.5** The top of the tread for any entrance must be at floor level of the passenger compartment. The outer edge of the floor at each entrance must be fitted with non-slip treads.
- 6.6** The vertical distance between the highest part of the floor and the roof in the passenger compartment must be not less than 1.3 metres.
- 6.7** Where seats are placed facing each other, there must be a minimum space of 42.5cm between any part of the front of a seat and any part of any other seat which faces it, provided adequate foot room is maintained at floor level. Where all seats are placed facing to the front of the vehicle, there must be clear space of at least 66cm in front of every part of each seat squab.

- 6.8** A ramp or ramps for the loading of a wheelchair and occupant must be available at all times. An adequate locking device must be fitted to ensure that the ramp/ramps do not slip or tilt when in use. Provision must be made for the ramps to be stowed safely when not in use.
- 6.9 All lifting equipment shall be installed, used, maintained and inspected in accordance with the Lifting Operations and Lifting Equipment Regulations 1998. Any lifting equipment fitted to vehicles that lifts people, requires to be inspected by a competent person every six months. A current certificate, issued by a competent person stating the equipment is safe requires to be submitted as part of any application or renewal, it is a requirement of the licence that no later than 6 months after the date of the original certificate a current certificate shall be forwarded to the Council. At no time shall lifting equipment be used without a valid certificate being in place.



Hackney Carriage & Private Hire Policy

Document 4 of 4

Private Hire Operator Rules

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Tewkesbury Borough Council

PRIVATE HIRE OPERATORS

RULE BOOK

1. Private Hire Operator – Application Requirements

New Applications

1.1 To make an application, the applicant(s) must:

- a complete and submit to the Licensing Authority the appropriate application form
- b pay the appropriate fee
- c complete a Basic Criminal Record Disclosure application form and provide appropriate identity documentation. (Where the applicant has also submitted an application for a Taxi or Private Hire Driver Licence to the Licensing Authority, the Enhanced Criminal Record Check that is undertaken as part of that application will be accepted instead of needing to provide a Basic Criminal Record Disclosure).

Additional Application Requirements for Foreign Nationals and Persons that have resided outside of the UK

1.2 The Licensing Authority must be satisfied that the applicant(s) is a fit and proper person. In order to determine this, an applicant who is a foreign national or is a person who has resided outside the UK, must do the following:

- a Provide a Basic Criminal Record Disclosure application as detailed in application requirements above (unless the applicant has only just arrived in this country). The Basic Criminal Record Disclosure will show any convictions that have been committed in the UK.
- b In addition to the Basic Criminal Record Disclosure the applicant must provide the Licensing Authority with a criminal record disclosure from all countries outside the UK where they have resided from the age of 18; or if those countries do not produce such information a certificate of good conduct from the Embassy or Diplomatic Mission from all countries outside the UK that they have resided in since the age of 18. This certificate must be an original and if in a foreign language must be accompanied by an original certified translation from a sworn translator. All costs involved in such certificates and translations must be paid by the applicant.
- c An applicant must be eligible to work in the UK and, if appropriate, will need to provide evidence of this.

- d Applications will not be accepted from foreign nationals that hold a Student Visa.

Renewal Applications

- 1.3 A renewal application must be completed prior to the expiry date of the Private Hire Operator's licence. Operators will be sent a reminder around 6 weeks before their licence is due to expire. Applications should be submitted at least 14 days prior to expiry, to ensure it can be assessed and issued on time. There is no period of grace if a renewal is submitted after the expiry date.
- 1.4 Licences will not be renewed without all supporting documentation being received. Licences renewed after the expiry date will run from the date the new licence is issued. The period from expiry to actual renewal date will be unlicensed, and the Operator must stop taking bookings for the private hire vehicles in their fleet.
- 1.5 To make a renewal application, the applicant must:
 - a complete and submit to the Licensing Authority the appropriate renewal application form
 - b pay the appropriate fee
 - c provide a Basic Criminal Record Disclosure application as detailed in application requirements above. The Basic Criminal Record Disclosure will show any convictions that have been committed in the UK.
 - d an applicant must be eligible to work in the UK and, if appropriate, will need to provide evidence of this.

Applications for a Dispensation to display plates/signage

- 1.6 Where a private hire operator wishes to make an application for a private hire vehicle to be exempt from displaying the licence identification plates and signage they will be required to complete the appropriate application form. The application form will be accompanied by documentation that supports the application and the application fee.
- 1.7 Applications may only be made by the private hire operator. Applications for exemptions relating to a fleet of vehicles will not be allowed. Each application will be assessed on its own merit and each vehicle will be inspected by a Licensing officer to ensure that it is fit for purpose.
- 1.8 Applications for exemption may be considered where the following requirements are met;
 - a) Vehicle models must be either four door saloons, or five door estates or five door hatchbacks. Applications will not normally be accepted in respect of people carrier type vehicles.
 - b) Vehicles must be of a standard of comfort and equipped to a level equal to or above luxury brands of vehicles such as 'S' and 'E' Class Mercedes Benz, 7 Series BMW, Lexus 'GS' or 'LS' models, Audi A8 series, Jaguar, Rolls Royce

and Bentley saloons. (The highest specification executive type cars from other manufacturers may also be considered.)

- c) The vehicle will be in pristine condition with no visible defects, dents or blemishes to the external bodywork or internal trim and seating.
- d) The type of work undertaken is 'executive' in nature. This means that the vehicle is used to provide transport under a written contract to a company or person, or by the type of clients who for security or personal safety reasons would not want the vehicle to be identifiable.
- e) A minimum dress code of business wear must be followed at all times the vehicle is being used to undertake a booking relating to executive work.

1.9 The Council may require applicants to provide any additional documentation as reasonably necessary to allow the Council to make an informed decision. Where such documentation is not provided to the satisfaction of the Council the application will be refused.

1.10 Where an application is granted and a vehicle is exempted from displaying its external identification plates and door panels, the vehicle will also be exempted from the need to display the window internal identification disc. An exemption notice will be issued as soon as practical after the decision is made by the Senior Licensing Officer.

1.11 Irrespective of when an exemption notice is granted the initial exemption notice will expire on the same day as the expiration of the vehicles current private hire licence, unless it is otherwise surrendered or revoked. Thereafter any renewed exemption notice will last for a period of time that coincides with that vehicle's private hire licence unless either the licence or notice is otherwise surrendered or revoked.

1.12 Exemption notices may be renewed annually subject to the vehicle undergoing a re-inspection by a Senior Licensing Officer to ensure that it continues to be fit for purpose.

1.13 In the event of an applicant being dissatisfied with the decision of the officer, the applicant may make a written application for a review of the decision by the Licensing Committee.

1.14 In addition to the criteria above, the following conditions will apply to vehicles granted an exemption from the requirement to display plates/signage:

- a) The identification plate and exemption notice provided by the Council pursuant to requirements of the Local Government (Miscellaneous Provisions) Act 1976 shall remain the property of the Council.
- b) Any Vehicle granted an exemption from displaying identification licence plates will be required to keep the identification plates in the vehicle and available for examination by a Senior Licensing Officer or any Police Officer.

- c) In the event of loss or damage rendering such plate or notice unserviceable the proprietor shall make immediate application for a replacement for which a fee is payable.
- d) The exemption notice issued by the Council will be carried in the vehicle at all times and will be produced upon request to an authorised officer of the Council or any Police Officer.
- e) When issued with an exemption notice, the vehicle will not be required to display any other signs including the internal identification disc, window stickers and door panels) which the Council may at any time require private hire vehicles to display.
- f) The proprietor will not display in, on or from the vehicle any advertisement, signage, logos or insignia advertising the operating company or the vehicle's status as a private hire vehicle.
- g) During the period of the exemption notice, the driver shall not be required to wear the private hire driver's identification badge but will have it available for immediate inspection by an authorised officer of the Council or any Police Officer on request.
- h) During the period of the exemption notice the driver of the vehicle whilst engaged on private hire work will be smartly dressed.
- i) The proprietor shall within 1 working day notify the Council of any change in the use of the vehicle.
- j) The driver and passenger front side window glass and the front windscreen must be clear. However, tinted windows can be fitted to the side and rear window glass of the vehicle provided that they were fitted at the time of manufacture.
- k) The exemption will cease to have effect on selling or transferring the vehicle to another party. The person to whom the exemption is granted must inform the council of the sale/transfer of ownership immediately and in writing, and provide details of the new owner. The exemption notice must be returned to the Council along with the private hire vehicle identification plate unless being sold to another private hire operator licensed by the Council; in which case, only the exemption notice has to be returned.
- L) The executive vehicle must not be used for any regular private hire work without all of the signage being displayed. All work must be pre booked as executive work and payment should be accepted following an invoice.

Disciplinary Action

- 1.15** A breach of any of these general conditions may result in disciplinary action in accordance with the Council's approved enforcement policy, Hackney Carriage and Private Hire Regulatory Guidelines and use of the Three Strikes Policy.
- 1.16** The Senior Licensing Officer may at any time considered necessary, refer a driver or operator to the Council's Licensing Sub-Committee to assess their suitability to be licensed. Such matters may include: discovery of a conviction or caution, complaints against the person, three or more strikes under the three strikes policy, at least one warning within a 12 month period.

Complaints Procedure

- 1.17** Details of the Council's complaints procedure for Hackney Carriage and Private Hire can be found in the approved 'hackney carriage and private hire regulatory guidelines'.

Three Strikes Policy

- 1.18** The council operates a Three Strikes Policy on private hire and dual driver licences to help ensure all drivers, owners and vehicles adhere to basic minimum standards, details of which can also be found in the Council's approved hackney carriage and private hire regulatory guidelines.

2. Private Hire Operator – Conditions

Delegation of Powers

- 2.1** Tewkesbury Borough Council will always have regard to this policy document and its objectives in exercising its taxi and private hire licensing functions. However, each application or enforcement measure will be considered on its own merits, and the Council has discretion to make exceptions to this policy. Where the Council makes exceptions to this policy, clear reasons will be given for the exception being made.
- 2.2** All matters under this policy that need to be decided urgently and are either sensitive or contentious will be considered by the Head of Public Protection.
- 2.3** All matters under this policy that need to be decided urgently that are non-sensitive or non-contentious will be considered by the Food, Licensing & Markets Service Manager.

Alteration of Existing Conditions

- 2.4** a The Council may alter these conditions upon the giving of 28 days notice in writing to the licence holder that any of these conditions are deleted, any new ones inserted or existing conditions altered.
- b Any alteration of conditions under this condition will be consulted upon in the normal way and the licence holder will have the right to appeal to the

Magistrates Court. The Licensing Committee will consider conditions and any comments as a result of the consultation in the normal way.

Duration of Licence

- 2.5 The Licence shall remain in force for a period up to five years.

Convictions, Cautions and Fixed Penalties

- 2.6 If any person named on the private hire operator's licence obtains any convictions, cautions, fixed penalties or has a court case pending, he/she must notify the Licensing Authority in writing within seven days of being formally notified of any such charge, summons or conviction, or in the case of a custodial sentence as soon as reasonably practical.
- 2.7 If an operator fails to notify of any cautions, convictions or fixed penalties within seven days of being formally notified of any such charge, then a strike will be issued in accordance with the Councils Three Strikes Policy. If this is picked up on a renewal application and the strikes issued take the operator to 3 or more strikes within a 12 month period, then the Licensing Team will not be in a position to renew the Private Hire Operators Licence. The Licensing Team will therefore refer the operator to the Licensing Sub-Committee for members to decide if they continue to be a fit and proper person.

Change of address or details of Licence

- 2.8 Any person named on the private hire operator's licence must notify the Licensing Authority in writing within seven days if the information supplied in his/her application for a private hire operator's licence is altered for any reason including a change of address.

Responsibility for Drivers and Vehicles

- 2.9 An operator must ensure that all vehicles and drivers operating under his/her operator's licence are complying with the legislation and conditions relating to private hire vehicles and drivers.

Accepting Bookings

- 2.10 An operator must not accept a booking unless the person making the booking knows the fee for the hire charge.

Records

- 2.11 An operator must keep records of all bookings at their operator base in either a bound book or as a computer record which must include:
- a The date and time of booking
 - b The point of the pick up
 - c The destination
 - d The name of the hirer
 - e The driver that is allocated to the booking

- f The driver's badge number
 - g The plate number of the vehicle allocated to the booking
 - h Any other comments such as details of sub-contract
- 2.12** An operator must keep records of all private hire vehicles that he/she operates. This includes:
- a The owner of the vehicle
 - b The registration number and plate number
 - c The driver of the vehicle and badge number
- 2.13** All records should be kept for six months from the date of the last entry.
- 2.14** Details of all bookings must be entered into the records to show that they have been accepted as soon as reasonably practicable.
- 2.15** An operator shall notify the Tewkesbury Borough Council Licensing Team, in writing, within seven days of the termination of employment of a private hire vehicle or driver.

Advertising

- 2.16** An operator must not use the words taxi or cab or any word of similar meaning or appearance to any words in any advertising of the operator's company. Private Hire Vehicles must not display such taxi related words on the door panel at any time. See conditions relating to door panels in the private hire rule book.

Standard of Service

- 2.17** An operator shall ensure that when a private hire vehicle has been hired it shall attend punctually at the appointed time and place unless delayed or prevented with reasonable cause.

Location of Operator Base

- 2.18** The location where an operator makes provision for taking a booking must be within the boundaries. This may be an office address, business address or a home address.

Premises

- 2.19** If any rooms or areas are provided for the public for waiting or making bookings they must be clean, smokefree, adequately heated and ventilated and lit and have adequate seating facilities.
- 2.20** If any rooms or areas are provided for use by the public, the operator must hold public liability insurance for those areas if relevant.

3. Private Hire Operators – Requirements under Legislation

- 3.1** Licensed Drivers and Operators must ensure that they comply with the requirements of the Town Police Clauses Act 1847, The Local Government (Miscellaneous Provisions) Act 1976 and any other legislation applicable to their role.

Drivers and Vehicles

- 3.2 An operator must not use unlicensed drivers or vehicles.
- 3.3 An operator may only make use of drivers and vehicles licensed by Tewkesbury Borough Council.

Records

- 3.4 An operator must make available records, on request, to an authorised officer of the Tewkesbury Borough Council or to a Constable.

Sub-contracting

- 3.5 The Deregulation Act 2015 makes provisions for Private Hire Operators to sub-contract work to an operator licensed by a different local authority.

Smokefree Legislation

- 3.6 Private hire vehicles and taxis are smokefree vehicles which means that no one can smoke in these vehicles at any time and the appropriate signage must be displayed. This also includes E-Cigarettes, E-Liquid and any other vaping products. Failing to prevent smoking in a smokefree place can lead to a maximum fine of £2500 imposed on whoever manages or controls the smokefree premises or vehicle, if prosecuted and convicted by a court.
- 3.7 Any enclosed premises that are used by the public for example for making bookings or are used as a workplace must be smokefree.

Equality Act

- 3.8 The Equality Act makes it unlawful to discriminate against members of the public on the grounds of disability. The Disability Rights Commission has issued a Code of Practice on the provision and use of transport vehicles.

Bookings made by Disabled Persons accompanied by Assistance Dogs

- 3.9 An operator may not refuse to take a booking by a disabled person if the reason for that refusal is because an assistance dog will accompany the person.
- 3.10 An operator may not make an additional charge to carry an assistance dog.

Planning Permission

- 3.11 The use of a premise for a private hire operators business may require planning permission. Operators are advised to check with the Development Control Team of the Tewkesbury Borough Council Planning Services Department.

Sale of Alcohol

- 3.12 Sale of alcohol is a licensable activity under the Licensing Act 2003. Sale of alcohol is prohibited on a moving vehicle. If a sale of alcohol is part of a booking arrangement that sale must be authorised by either a Premises Licence or Temporary Event Notice in accordance with the Licensing Act 2003.

4. Private Hire Operators – Glossary

Basic Criminal Disclosure

- 4.1 A Basic Disclosure will contain details of convictions held in central police records which are unspent according to the Rehabilitation of Offenders Act 1974 or will state that there are no such convictions. The applicant applies direct to the body that provides the basic disclosure and provides to them confirmation of identity and payment of the appropriate fee. You can apply for a Basic Disclosure online at <http://www.gov.uk/request-copy-criminal-record> or by ringing 03000 200 190.

Licensing Authority

- 4.2 The Authority responsible for issuing Licenses in relation to taxi and private hire drivers, vehicles and operators under the Town Police Clauses Act 1847 and Part II of the Local Government (Miscellaneous Provisions) Act 1976.

Premises Licence

- 4.3 A licence issued by a Licensing Authority under the Licensing Act 2003 which permits licensable activities which may include sale by retail of alcohol.

Private Hire

- 4.4 The provision of a vehicle constructed or adapted to seat no more than 8 passengers and driver for hire or reward by a licensed private hire operator. This service must be booked in advance and cannot be provided at taxi stands or by hailing the vehicle concerned.

Sub-contracting

- 4.5 This is when a private hire operator takes a booking and then arranges for another licensed operator in any area to make the journey.

Hackney Carriage/Taxi

- 4.6 A Taxi is also known as a Hackney Carriage. It is defined in section 38 of the Town Police Clauses Act 1847 and is a wheeled vehicle constructed or adapted to seat no more than 8 passengers that can carry passengers for hire and reward and may stand or ply for hire in any street within the licensed district.

Temporary Event Notice

- 4.7 A Notice submitted to the Licensing Authority under the Licensing Act 2003 in relation to licensable activities, which may include the sale by retail of alcohol. There are restrictions on temporary event notices including a limit on how many can be submitted per year.

TEWKESBURY BOROUGH COUNCIL

Report to:	Licensing Committee
Date of Meeting:	21 March 2019
Subject:	Review of Street Trading Policy
Report of:	Head of Community Services
Corporate Lead:	Deputy Chief Executive
Lead Member:	Lead Member for Clean and Green Environment
Number of Appendices:	One

Executive Summary:

At the Licensing Committee on 18 October 2019 it was agreed that, following the consultation of street traders, a wider public consultation on the revised draft Street Trading Policy be carried out to seek views of the public with regards to the inclusion of a requirement to have an enhanced Disclosure and Barring Service (DBS) check carried out as a pre-requisite to being licensed as a street trader. Given that no comments were received as a result of the public consultation, it is proposed that Members approve the revised Street Trading Policy.

Recommendation:

To APPROVE the revised Street Trading Policy following public consultation.

Reasons for Recommendation:

Following consultation with the licensed street traders within Tewkesbury Borough and members of the public, no strong objection was received regarding inclusion of an enhanced DBS check as a requirement of obtaining a street trading licence.

Resource Implications:

There are no significant resource implications resulting from this report.

Legal Implications:

1. When introducing or changing a Policy, the Council must ensure that it complies with the relevant legislation.
2. The Council must ensure that any decision-making or delegation complies with its powers under the Council's Constitution

Risk Management Implications:

None.

Performance Management Follow-up:

The Street Trading Policy will be reviewed on a three yearly basis, or when there is a significant change to legislation or relevant guidance.

Environmental Implications:

None.

1.0 INTRODUCTION/BACKGROUND

- 1.1 At the Licensing Committee on 18 October 2019 it was agreed that, following the consultation of street traders, a wider public consultation on the revised draft Street Trading Policy be carried out to seek views of the public with regards to the inclusion of a requirement to have an enhanced Disclosure and Barring Service (DBS) check carried out as a pre-requisite to being licensed as a street trader.

2.0 REVISED STREET TRADING POLICY

- 2.1 The revised draft Street Trading Policy was put out to public consultation on the 7 January 2019, seeking comments by 1 February 2019.
- 2.2 As no comments were received as part of the public consultation, it is recommended that the Committee approve the revised Street Trading Policy set out at Appendix 1 which includes a requirement that enhanced DBS checks be carried out as a pre-requisite to being licensed.

3.0 OTHER OPTIONS CONSIDERED

- 3.1 N/A

4.0 CONSULTATION

- 4.1 Licensed street traders were consulted directly on the revised Street Trading Policy between 11 September 2018 and 1 October 2018. All licensed street traders were written to and their views on the proposed changes sought.
- 4.2 A wider public consultation was carried out between 7 January 2019 and 1 February 2019. The revised Street Trading Policy was posted onto the Council's website and views of the public requested - no comments were received.

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

- 5.1 Tewkesbury Borough Council, Street Trading Policy - March 2018
Tewkesbury Borough Council Safeguarding Policy

6.0 RELEVANT GOVERNMENT POLICIES

- 6.1 Statement of Government Policy on Adult Safeguarding - 16 May 2011
Safeguarding Children and Young People - 14 July 2014

7.0 RESOURCE IMPLICATIONS (Human/Property)

7.1 None

8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

8.1 This change to policy seeks to extend greater protections to children and vulnerable adults across the borough.

9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

9.1 This change to policy seeks to extend greater protections to children and vulnerable adults across the borough.

10.1 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

10.1 None.

Background Papers: None

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Appendices: Appendix 1 – Revised Street Trading Policy



Street Trading Policy

Implementation Date:

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1.0 INTRODUCTION

1.1 The Policy

- 1.1.1. This document states Tewkesbury Borough Council's Policy on Street Trading, as defined by the Local Government (Miscellaneous Provisions) Act 1982 (Section 3 and Schedule 4).
- 1.1.2. In exercising its discretion in carrying out its regulatory functions, Tewkesbury Borough Council will have regard to this Policy document and the principles set out therein.
- 1.1.3. Notwithstanding the existence of this Policy, each application will be considered on its own merits, with reference to the principles and procedures that are detailed in this Policy.

1.2. The Objectives of this Policy

- 1.2.1. This Policy recognises the important service that is provided by street traders and the contribution they make to the local economy.
- 1.2.2. The objective of this Policy is to create a trading environment in which street trading complements existing premises-based retailing activities, is sensitive to the needs and concerns of residents and provides diversity in terms of consumer choice.
- 1.2.3. The Policy aims to ensure that street trading does not undermine safe and efficient passage along public highways.
- 1.2.4. This Policy aims to balance the needs of the wider community, local community and street traders, against the needs of those who may be adversely affected by the street trading activities.
- 1.2.5. The Policy aims to provide consistency and transparency in the way in which the Council deals with street trading and to ensure that street trading is fairly, appropriately and proportionately controlled, in line with the Council's Corporate Enforcement Policy.

1.3. The Law

- 1.3.1. The Local Government (Miscellaneous Provisions) Act 1982 (Section 3 and Schedule 4) provides the legal framework for the control of street trading in England and Wales. This activity is defined as "*the sale and exposing or offering for sale any article, including a living thing, in a street.*" Streets are further defined as to include any road, footway, beach, or other area to which the public have access without payment.
- 1.3.2. The main purpose of this legislation is to establish an appropriate regulatory regime which prevents undue nuisance, interference or inconvenience to the public brought about by street trading. This legislation provides local

authorities with the power to designate specific areas within their administrative boundaries as either:

- Prohibited Streets: those which are not open to street traders
- Consent Streets: where street trading is prohibited without Local Authority consent
- Licence Streets: where trading is prohibited without a Local Authority licence

1.4.1 Local authorities can place conditions on any Consent or Licence granted. The Act also creates offences associated with trading in Consent or Licence streets without the necessary authority: the person guilty of such an offence may be liable, on conviction, to a fine of up to £1000.

1.4.2 There are, however a number of exemptions provided in the Act, which are not considered to be street trading. These are detailed in Section 10 below (definition of 'Street Trading'). However it is important to note that exempted traders are still controlled by other regulatory legislation.

1.5 Licensing Act 2003

1.5.1 It should be noted that should a street trader wish to sell alcohol or provide late night refreshment, additional authorisation will be needed under the terms of the Licensing Act 2003.

1.5.2 Late night refreshment is the supply of hot food or drink between the hours of 11pm and 5am on any day of the week.

1.5.3 Licensing Officers will be able to provide further information on the requirements of the Licensing Act 2003.

2.0 DESIGNATION OF STREETS FOR THE PURPOSES OF STREET TRADING

2.1 Prohibited Streets

Listed below are the streets that have been designated by the Council as prohibited streets. These are streets in which street trading is prohibited:-

- The A438 / A46 from its easterly junction with Barton Street and Chance Street, Tewkesbury to the Teddington Hands Roundabout.
- Evesham Road / Cheltenham Road at Bishops Cleeve from the boundary with Cheltenham Borough Council to Anchor Cottage Bend, Bishops Cleeve.
- The A46 from the Teddington Hands roundabout to the County boundary with Worcestershire.
- The A4019 from the boundary with Cheltenham Borough Council at Swindon to the junction with the M5 motorway but to exclude the lay-by at the southern side of this road at Uckington.

- The A40 from the boundary with the Cheltenham Bough Council at Badgeworth Parish Council to Gloucester City Council at Innsworth Parish (i.e. the Golden Valley By-Pass).
- The A40 from the junction with the A48 at Highnam to the boundary with Gloucester City Council.
- The A46 from the boundary with Cheltenham Borough Council to the junction with Ermin Street and Cirencester Road at Brockworth.
- Hucclecote Road / Ermin Street / Cirencester Road, Brockworth from the boundary with Gloucester City Council to the junction between Cirencester Road and Green Lane
- The lay-by at the side of the B4632 at Postlip, Winchcombe.
- The B4063 from its junction with the A40 at the Golden Valley roundabout to the eastern edge of the Churchdown urban areas.
- The B4632 in Winchcombe from its junction with Corndean Lane to its junction with Silk Mill Lane.
- North Street, Winchcombe from its junction with High Street to its junction with Back Lane and Greet Road.
- The A38 Tewkesbury from the High Street and Bredon Road junction to the junction with the A438 at the Mythe.
- High Street, Barton Street, and Church Street, Tewkesbury.
- Oldbury Road, Tewkesbury from its southerly junction with Nelson Street to its northerly junction with Bredon Road.

2.2 Consent Streets

All other streets in the Borough have been designated by the Council as “consent streets”. This means that street trading can only take place in these streets with the consent of the Council.

2.3 Prime Sites

A “Prime Site” category is considered as one where an applicant seeks consent to trade in a street, and regularly occupies the same site for more than 4 hours on any one or more days, and is located within 100 metres of a shopping area as listed below.

- Lee Road and Northway Lane Shopping Centre, Ashchurch
- Church Road, The Green and Tobyfield Road, Bishops Cleeve
- Abbottswood Road, Court Road, The Parade, Usk Way, Ermin Park and Ermin Parade, Brockworth

- Blacksmith Lane, Brookfield Road, Chosen Drive and St Johns Avenue, Churchdown
- Kestrel Parade and Salvia Close, Innsworth
- Barton Street, Church Street, High Street, Mitton Way, Oldbury Road and Queens Road, Tewkesbury
- High Street, North Street and Station Road, Winchcombe

3.0 APPLICATIONS FOR A STREET TRADING CONSENT

3.1 Advice for New Applicants

- 3.1.1 New applicants are advised to contact the Council at their earliest opportunity, preferably before an application is made. This allows Officers to provide advice, as well as clarifying any areas of uncertainty.
- 3.1.2 It is the responsibility of the applicant, in the first instance, to identify the location(s) in which they wish to trade as there is no designated list of street trading “pitches” that can be traded from.
- 3.1.3 The Council can also provide advice in relation to other legal requirements of a new Consent Holder, for example, planning permission or food safety requirements.

3.2 Disclosure & Barring Service (DBS)

- 3.2.1 Applicants applying for a new street trading consent will be expected to obtain an enhanced DBS certificate (formerly known as CRB) from the Disclosure and Barring Service, which must be no more than one calendar month old when submitted to the Council.
- 3.2.2 The DBS certificate must be in the name and address of the applicant as detailed on the application form.
- 3.2.3 The original certificate must accompany the application form.
- 3.2.4 The Council will ask for a new DBS certificate from an applicant every third year beginning with the year after the issue of a new consent.
- 3.2.6 The DBS certificate will be expected to accompany a renewal application every three years and the Council will make it clear to applicants when this is required.
- 3.2.5 When determining an application for the grant or renewal of a street trading consent the Council will consider all relevant information relating to the suitability of the applicant to hold such a consent. Street Traders and their commercial activities are often subject to minimum levels of supervision. They interact closely with members of the public and it is important that the public,

especially vulnerable people are protected from harm, and from those who may harm them, wherever possible.

3.3 Suitability of Applicant

3.3.1 The Council will determine whether the applicant is a suitable person to carry on business as a street trader and may not issue a consent unless satisfied that the applicant is suitable. In determining this, the Council may have regard to any information, which it considers relevant including:-

- Whether the applicant has been convicted of a relevant offence;
- Refusal or neglect in paying fees due to the Council for a street trading consent, or for any other charges due for services rendered by the Council to the applicant in his capacity as the holder of a street trading consent;
- Previous failures of the applicant, without reasonable excuse, to make use, to a reasonable extent, of a previous street trading consent;
- Any previous enforcement action;
- Any previous refusal of an application for the grant or renewal of a Street Trading Consent;
- Any previous revocation of a Street Trading Consent.

3.3.2 Identification badges will be issued by the Council to demonstrate the suitability of the consent holder and any assistants who may be trading on their behalf. Other employees may not need to apply for DBS check and an identification badge as long as they are supervised at all times by a badge holder.

3.3.3 Identification badges do not reflect the street trading consent. Consent holders are still required to display their consent on their unit. Each applicant or assistant will only require one badge per person; this applies if they trade under more than one street trading consent.

3.4 Applications

3.4.1 All applications for grant or renewal of a Street Trading Consent must be made on the Council's prescribed application form. A copy of the prescribed form is attached to this Policy at **Annex A**.

3.4.2 Each application must be accompanied by the prescribed application fee. An application will not be considered as duly made until the prescribed application fee has been received.

3.4.3 The following will also be required to be submitted with the application:-

- Where the proposed trading is from a fixed location, a copy of a plan at a minimum scale of 1:2000, unless an alternative scale has been specified by a Licensing Officer. This plan should clearly identify the proposed site location by marking the site boundary with a red line.
- Where the trading is proposed to take place on a mobile basis, a list of the relevant Towns/Parishes in which trading is proposed to take place providing details where possible about specific areas.

- Confirmation that an adequate level of third party public liability insurance is, or will be, in place during street trading activity.
- Where the trading is to take place from private land, documentary evidence that the landowner has given their consent to the applicant to trade from their land.
- Two passport sized photographs of the applicant and any person who will be assisting with the trading on a regular basis. One of the photographs of each person must be endorsed with a statement verifying the likeness of the photograph to the applicant by a solicitor, notary, a person of standing in the community or any individual with a professional qualification.

3.4.4 Applications cannot be considered from anyone under the age of 17.

3.5 Processing an Application

3.5.1 Applications for grant or renewal of a Street Trading Consent will be notified by the Council to the following:-

- Gloucestershire Constabulary.
- Gloucestershire Highways.
- The relevant Town/Parish Council(s).
- The Borough Councillor(s) for the Ward(s) concerned.
- Environmental Health Officers at Tewkesbury Borough Council.
- The Planning Authority.

3.5.2 Additionally, where the application is for grant of a new Consent in respect of a fixed location, the applicant must also advertise their application by displaying the prescribed Public Notice at the relevant location for not less than 14 days beginning with the day after the application for Consent is made to the Council. The form of the Public Notice required is shown at **Annex B** to this Policy.

3.5.3 The Council will allow 28 days from the date that the application is received for people to make representations or objections in relation to the application.

3.5.4 Representations or objections will be accepted from any of the bodies listed at 3.3.1 and any other individual or business that can demonstrate that they would be materially affected by the proposed street trading activities.

3.6 Determining Applications with no Representations or Objections

3.6.1 Where no representations or objections are received within 28 days of the application being received, Officers will grant Consent to the applicant in the terms that it was applied for.

3.7 Determining Applications through Mediation

3.7.1 Where a representation or objection is received in respect of an application, a Licensing Officer will, in the first instance, attempt to mediate between the relevant parties.

3.7.2 For example, it may be possible to find a compromise position in one of the following ways:-

- amending the times during which trading will take place;
- amending the days on which trading will take place;
- adding conditions to the Consent to address specific concerns;
- granting Consent for a trial period to assess the impact; or
- amending the list of articles to be sold.

3.7.3 Where all relevant parties agree to a compromise position, the Consent will be granted by Officers, subject to the agreed amendments.

3.8 Determining Applications Where Mediation Is Not Possible

3.8.1 Where representations or objections are received and it is not possible to reach an agreed compromise, the application can be referred, at the applicant's request, to a Licensing Sub-Committee for determination.

3.8.2 The Licensing Sub-Committee will be conducted in accordance with the procedure attached at **Annex C** of this Policy.

3.9 Key Considerations

3.9.1 Each application will be considered on its own merits.

3.9.2 The Council will have regard to all of the circumstances and all of the representations and objections that it receives. The Council will normally grant or renew a Street Trading Consent unless, in its opinion,-

- a significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site; or
- there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited; or
- there would be a significant loss of amenity caused by traffic, noise (whether from trading unit or its customers), light pollution, rubbish, air quality, potential for the harbourage of vermin; or
- there is already adequate like provision in the vicinity of the site to be used for street trading purposes; or
- there is a conflict with Traffic Orders such as waiting restrictions; or
- the site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes; or
- street trading activities would undermine the safe and efficient passage along public highways and cause congestion; or
- the pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities; or

- the site does not allow the Consent Holder, staff and customers to park in a safe manner; or
- the trading activity would detract from the visual or other attractions of the area in which it takes place, particularly designated Conservation Areas, Areas of Outstanding Natural Beauty and Sites of Special or Scientific Interest; or
- street trading activities would conflict with the solemnity and tranquillity that can reasonably be expected at sensitive locations, such as close to a place of worship, cemetery, crematorium etc; or
- the street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff; or
- a Consent has already been granted to another person to trade similar articles in the immediate vicinity.

3.10 Options Available to Licensing Sub-Committee

3.10.1 When determining an application for grant or renewal of a Street Trading Consent, a Licensing Sub-Committee can take any of the following steps as is considered desirable with a view to meeting the objectives of this Policy:-

- (a) grant consent to the applicant as applied for;
- (b) grant consent to the applicant subject to modifications to any of the following matters:
 - (i) the days on which trading can take place;
 - (ii) the times during which trading can take place;
 - (iii) the location(s) where trading can take place;
 - (iv) the articles that can be traded;
 - (v) the conditions attached to the Consent;
 - (vi) the duration of the Consent.
- (c) refuse to grant Consent.

3.10.2 In the interests of transparency, reasons will be given for any decision taken by a Licensing Sub-Committee.

4.0 DURATION OF STREET TRADING CONSENTS

4.1 Duration

4.1.1 A Street Trading Consent may be granted for any period not exceeding 12 months, but may be revoked at any time.

4.1.2 The holder of a Street Trading Consent may at any time surrender their Consent to the Council, and it shall then cease to be valid

4.1.3 A Street Trading Consent will normally be granted for 6 or 12 months, in accordance with the applicant's wishes, and will then expire.

- 4.1.4 The Council will consider granting a Street Trading Consent for a shorter duration than 6 months on application.
- 4.1.4 A Street Trading Consent may be granted for a shorter period as determined either through the mediation process described at Paragraph 3.5 or by a Licensing Sub-Committee. Consents lasting less than 6 months may be granted to provide a “trial period” during which any adverse impact of the trading can be assessed.

4.2 Renewal

- 4.2.1 Applications to renew an existing Street Trading Consent must be made at least 28 days prior to the expiry of the existing Consent.
- 4.2.2 If applications for renewal are not received at least 28 days prior to the expiry of the existing Consent, applications from other prospective traders wishing to trade at the relevant location will be considered.

5.0 CONDITIONS ATTACHED TO CONSENTS

5.1 Standard Conditions

- 5.1.1 When granting or renewing a Street Trading Consent, the Council may attach such conditions to it as they consider reasonably necessary.
- 5.1.2 Street Trading Consents will usually be granted subject to the standard conditions detailed in **Annex D** to this Policy.

5.2 Additional Conditions

- 5.2.1 Additional conditions, over and above the standard conditions, may be imposed on a Street Trading Consent on a case by case basis. Additional conditions may be attached either as a result of the mediation process described at Paragraph 3.5 or by a Licensing Sub-Committee when granting Consent.

6.0 APPEALS

6.1 Refusals / Attached Conditions

- 6.1.1 The Act does not provide an applicant with any direct right of appeal against a decision to refuse the grant or renewal of a Street Trading Consent, the revocation of a Street Trading Consent, or against any restrictions or conditions imposed on a Street Trading Consent.

7.0 COMPLAINTS AND ENFORCEMENT

7.1 General Principles

- 7.1.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also responsible members of the trade.

7.1.2 All decisions and enforcement actions taken by the Licensing Authority will be in accordance with the Council's Corporate Enforcement Policy and the principles of consistency, transparency and proportionality set out in the Regulator's Compliance Code.

7.2 Offences

7.2.1 The following are offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982:-

- engaging in street trading in a prohibited street;
- engaging in street trading in a consent street without Consent;
- contravention of a condition in relation to trading location; and
- contravention of a condition in relation as to the times between which or periods for which a Consent Holder can trade.

7.3 Complaints

7.3.1 Where complaints are received regarding the carrying on of street trading activities, these will be investigated in a prompt and professional manner.

7.3.2 If a complaint is found to be justified then the following actions may be taken by Officers:-

- verbal warning;
- written warning;
- simple caution;
- prosecution; or
- referral of the Consent Holder to a Licensing Sub-Committee.

7.3.3 If an existing Consent Holder is referred to a Licensing Sub-Committee, the Licensing Sub-Committee may take any of the following steps as are deemed desirable to meet the objectives of this Policy:-

- take no further action;
- give a warning to the Consent Holder;
- amend the days on which trading can take place;
- amend the times during which trading can take place;
- amend the location(s) where trading can take place;
- amend the articles that can be traded;
- amend the conditions attached to the Consent;
- amend the duration of the Consent; or
- revoke the Consent.
-

8.0 AMENDMENTS TO THIS POLICY

8.1 Any significant amendment to this Policy will only be implemented after further consultation with the trade and the public.

For the purpose of this section, any significant amendment is defined as one that:-

- a) is likely to have a significant financial effect on licence holders;
- b) is likely to have a significant procedural effect on licence holders; or
- c) is likely to have a significant effect on the community.

9.0 FEES AND CHARGES

- 9.1 The fees charged by the Authority for Consents to trade should at least cover the cost of administering and enforcing the service.
- 9.2 The fees will be reviewed at least on an annual basis and published on the Council's website.
- 9.3 It is possible for the Authority to charge different fees for Consents that are for different durations or locations. Different fees can also be charged depending on the nature of the articles being sold and depending on whether the trading takes place at a single location or on a mobile basis.
- 9.4 Street trading fees may be waived at the discretion of the relevant Corporate Head of Service, acting in consultation with the Chairman and Vice-Chairman of the Licensing Committee. Fees may only be waived in relation to charitable or community events, or events of a similar nature. Each event will be judged on its own merits.

10.0 DEFINITIONS

TERM	DEFINITION
Authorised Officer	An Officer of the Council authorised by it to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.
Consent	A Consent to trade on a street granted by the Council, pursuant to Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
Consent Holder	The person or company to whom the consent to trade has been granted by the Council.
Consent Street	A street in which street trading is prohibited without the consent of the Council.
Council	Tewkesbury Borough Council
Days	Refers to consecutive or calendar days unless specified otherwise.
Prohibited Street	A street in which street trading is prohibited
Prime Site	A "Prime Site" category is one where an applicant seeks consent to trade in a street, and regularly occupies the same site for more than 4 hours on any one or more days, and is located within 100 metres of a shopping area as listed.

Street	Any road, footway or other area to which the public have access without payment, or any part of a street, including all roads, footways and areas open as a matter of fact to the public without payment, within the distance of 30 metres from the centre of those streets which are part of the public highway.
Street Trading	<p>The selling or exposing, or offering for sale of any article (including a living thing) in any street. The following are not street trading for the purposes of this Policy:-</p> <ul style="list-style-type: none"> • a pedlar with a Pedlar's Certificate; • anything done in a Market or Fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an Enactment or Order; • trading in a trunk road picnic area provided by the Secretary of State under Section 112 of the Highways Act 1980; • trading as a newsvendor selling only newspapers/magazines; • trading which is carried out at premises used as a petrol filling station, or at premises used as a shop, or in a street adjoining premises so used, and as part of the business of the shop; • selling things, or offering or exposing them for sale, as a rounds man; • the use for trading, under Part VIIA of the Highways Act 1980, of an object or structure placed on, in or over a highway; • the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980; • the doing of anything authorised by regulations made under Section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916.
Street Trading Assistant	<p>A person engaged by the Consent Holder to assist them with their trading.</p> <p>A street trading assistant will be deemed to be assisting a Consent Holder on a regular basis if they will be engaged to assist them on more than 14 days per calendar year.</p>

DRAFT

ANNEX A



**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT
1982**

SCHEDULE 4

TEWKESBURY BOROUGH COUNCIL

Licensing Section, Council Offices, Gloucester Road, Tewkesbury, GL20 5TT

APPLICATION FOR A STREET TRADING CONSENT

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

1. Type of Application

Grant		Renewal	
12 Month Consent		6 Month Consent	
Other period (please specify)			

2. Personal Details of Applicant

Full Name					
Permanent Address					
Age		Date of Birth		NI Number	

Contact Telephone Number	
---------------------------------	--

Are you eligible to work in the United Kingdom?

YES / NO

3. Details of any person(s) who will be assisting with the street trading on a regular basis?

Full Name					
Permanent Address					
Age		Date of Birth		NI Number	

Is this person eligible to work in the United Kingdom?

YES / NO

Full Name					
Permanent Address					
Age		Date of Birth		NI Number	

Is this person eligible to work in the United Kingdom?

YES / NO

5. **Will the trading be carried out:**

From a single fixed location	From a number of locations on a “mobile” basis
------------------------------	--

6. **Where is it proposed that the trading will take place? (see Guidance Notes)**

If this location is on private land, can you provide documentary evidence that you have the landowners' permission to trade from their land?

YES / NO

7. **Trading Hours**

During which hours do you wish to trade on the following days?

Monday	Tuesday
Wednesday	Thursday
Friday	Saturday
Sunday	

8. **Description of the articles to be sold or offered for sale**

If selling foodstuffs, are you registered with the relevant Local Authority to carry on a food business? **YES / NO**

9. Description of any van, cart, barrow, portable stall of other vehicle used for trading including (if applicable) the vehicle registration number

10. Address where any van, cart, barrow, portable stall of other vehicle used for trading will be kept when not being traded from

12. Previous Applications / Licences / Consents

Have you ever been refused a Street Trading Licence or Consent or had such a Licence or Consent revoked? **YES / NO**

If yes give details (continue on a separate sheet if necessary)

--

13. Declaration (See Guidance Notes at the end of this form)

I declare that I have checked the information given on this application form and to the best of my knowledge and believe it is correct.

I understand that I must now advertise my application in accordance with Tewkesbury Borough Council's Street Trading Policy.

I have enclosed all of the following:-

- The relevant fee.
- A plan (where necessary) showing the location where I wish to trade.
- Two passport sized photographs of myself and any regular assistant.
- A copy of my third party public liability insurance.
- Documentary evidence of the landowners permission to trade from their land (where necessary)

I understand that if I fail to comply with the above, my application will be rejected.

Signed _____ **Date** _____

Print Name _____

For Office Use Only	
Police response received	

Application Form - Guidance Notes

False Statements in Connection with Applications

Any person who, in connection with an application for the grant or renewal of a Consent under this Schedule, makes a false statement which they know to be false in any material respect, or which they do not believe to be true, shall be guilty of an offence. This offence carries a maximum penalty of £1000

Giving Public Notice of the Application

Where the application is for grant of a new Consent in respect of a fixed location, the applicant must advertise their application by displaying the prescribed Public Notice at the relevant location for not less than 14 days beginning with the day after the application for Consent is made to the Council.

Plans / List of Parishes

Where the proposed trading is from a fixed location, a copy of a plan must be provided at a minimum scale of 1:2000, unless an alternative scale has been specified by a Licensing Officer. This plan should clearly identify the proposed site location by marking the site boundary with a red line.

Where the trading is proposed to take place on a mobile basis, a list of the relevant Towns/Parishes in which trading is proposed to take place must be provided along with details where possible about the specific areas in which the trading will take place.

Trading from Private Land

Where the trading is to take place from private land, documentary evidence that the landowner has given their consent to the applicant to trade from their land must be provided.

Prevention and Detection of Fraud

This Authority is under a duty to protect the public funds it administers and to this end, may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes. For further information see www.tewkesbury.gov.uk/NFI.

ANNEX B

NOTICE OF APPLICATION FOR GRANT OF A STREET TRADING CONSENT

Name of Applicant	
Location	
Summary of application (hours of trading, articles to be sold, etc):	
<p>NOTICE IS HEREBY GIVEN that an application has been made to Tewkesbury Borough Council for a Consent to carry out street trading at the above location</p> <p>Copies of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (which defines the type of activity that may be carried on under a Consent) and of the application may be inspected at Tewkesbury Borough Council, Council Offices, Gloucester Road, Tewkesbury, GL20 5TT between 9.00 am and 4.00 pm (Monday to Friday except public holidays).</p> <p>Any representations or objections in respect of the above application must be made in writing to the council at the above address by</p> <p>_____</p> <p>(28 days after the date of the application)</p>	

ANNEX C – HEARINGS PROCEDURE

TEWKESBURY BOROUGH COUNCIL

Licensing Sub-Committee (Street Trading)

Procedure

1. The Chairman will ask everyone present to introduce themselves.
2. The Chairman will briefly explain the procedure to members of the public.
3. The Licensing Officer will open the hearing with an outline of the relevant details of the application.
4. The applicant or his/her representative will be invited to present his/her case, at the conclusion of which he/she, together with any witnesses he/she may have called, may be questioned by Members of the Sub-Committee.
5. The Sub-Committee may then invite comments from Officers and, if appropriate, representatives of such bodies as the Police and Fire Authority, following which any objectors, and others wishing to make representations in respect of the application, will be invited to make their submissions. Members of the Sub-Committee may ask questions of all those present.
6. The applicant will then be allowed to make a final statement in response to any objections that have been raised.
7. At the conclusion of the hearing, the stage at which the Sub-Committee will wish to deliberate upon the application, the applicant will be asked to withdraw together with all other parties present. If it is necessary to recall any party to provide further information or clarification all parties at the hearing must be invited to return.
8. When the Sub-Committee has reached its conclusions the parties will be recalled and its decision will be announced to the applicant, accompanied by, as appropriate, a description of any conditions which are to be attached to the grant of a Licence/Consent.

ANNEX D

STREET TRADING CONSENT **STANDARD CONDITIONS**

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

Street Trading Consents are issued by this Council subject to the following Standard Conditions, in so far as they do not conflict with, or are amended by, any special conditions imposed on the grant of a Consent:-

- The Consent shall be valid for the period specified in the Consent, but this period shall not exceed 12 months.
- The Consent may be revoked by the Council at any time.
- A Consent shall be required for each trading unit (e.g. each vehicle or stall).
- A Consent shall not be assigned or transferred.
- Street trading must only be carried on by the Consent Holder or by a person engaged by the Consent Holder to assist in their trading.
- The Consent Holder must provide the name, address and date of birth of any person assisting them with their trading on a regular basis.
- Consent Holders, and any person assisting them on a regular basis, shall at all times, clearly and visibly display a valid identification badge. The badge is to be issued by the Council.
- The Council may vary or make additions to the Conditions or a Consent at any time.
- The Consent shall be limited to the days of the week, and between the hours each day, as stated on the Consent.
- The Consent Holder and/or his assistants shall only sell, or offer for sale, those goods specified in the Consent granted to the Consent Holder.
- The Consent Holder, and/or his assistants, shall only trade at the location(s) specified in the Consent.
- The Consent Holder, and/or his assistants, must not cause an obstruction of any street or endanger any person using it.
- The Consent Holder, and/or his assistants, must not cause nuisance (whether from noise, smell, litter or light) or annoyance by reason of the street trading activity, whether to persons using or living in the street or otherwise. In particular, but without prejudice to the generality of the foregoing, the Consent Holder shall ensure that his customers or patrons conduct themselves in an orderly manner.

- Where a trader trades from a fixed location, at least one refuse container must be provided for use by customers.
- When leaving a site the trader shall ensure that the locations in the immediate vicinity of where he has been trading are clear of refuse and waste arising from the trading.
- Traders must arrange the removal and disposal of waste arising from their trading in a lawful manner.
- No waste matter shall be discharged onto a street or be allowed to enter a highway drain.
- The use and storage of liquefied petroleum gas shall comply with all current, relevant legislation and Codes of Practice.
- No television, radio, tape player or other device used for the entertainment of the Operator, shall be audible outside, or beyond, the trading unit.
- All signs advertising the business must be no more than 50 metres from the trading unit.

NOTE: The requirements as to signs advertising the business do not imply the right to display such signs which may require a necessary planning permission.

- At the end of each trading period the trader shall remove any signs advertising the business, with the exception of those attached to the vehicle or stall used for the purposes of the Street Trading Consent.
- No television, radio, tape player or other device used for the reproduction or amplification of sound during trading shall be at a level which causes nuisance or annoyance to persons using or living in the street.
- Any vehicle, stall or container used by the Consent Holder in the course of street trading shall be constructed and maintained to the satisfaction of all reasonable requirements of the Council, the Police and Highway Authorities as to its construction, safety and appearance.
- The Consent Holder shall, at all times, maintain a valid Third Party Public Liability Insurance Policy to the satisfaction of the Council and shall produce a valid certificate of such insurance at any time upon request by an authorised Officer of the Council.
- The Consent Holder, and/or assistants, shall not trade whilst intoxicated and should behave in a civil and orderly manner at all times when trading.
- Consent holders, and any/or assistants, should wear clean and appropriate clothing.
- The Consent Holder must notify the Council within 7 days if any of the information provided when applying for the consent changes.

A Street Trading Consent does not operate as a consent for any purpose other than to permit the holder to trade on a Consent Street in accordance with any conditions imposed. The Consent Holder must ensure that he has obtained any other consent, approval or registration required under any other statutory provision relevant to his trade.

In these conditions "Consent" means a consent issued under Paragraph 7 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982; "Consent Holder" means the person named on the Street Trading Consent issued by the Council and any person employed by him to assist in his trading; "Council" means the Tewkesbury Borough Council.

ADDITIONAL CONDITIONS APPLICABLE TO MOBILE FOOD VENDORS

USE OF LOUDSPEAKERS TO ATTRACT BUSINESS¹

Chimes should not be sounded:

1. For longer than 4 SECONDS at a time.
2. More often than ONCE every 3 MINUTES.
3. When the vehicle is stationary.
4. Except on approach to a selling point.
5. When in sight of another ice-cream van which is trading.
6. When within 50m of schools (during school hours), hospitals, and places of worship (on Sundays and any other recognised days of worship).
7. More often than ONCE every 2 HOURS in the same street.
8. Louder than 80 dB(A) at 7.5m (Contact your Local Authority for advice).
9. As loudly in quiet areas or narrow streets as elsewhere.

REMEMBER - IT IS AN OFFENCE TO SOUND YOUR CHIMES

1. Before 12 noon and after 1900 hours.
2. At any time in a way which gives reasonable cause of annoyance.

¹ Based on the Control of Noise (Code of Practice on Noise From Ice-Cream Van Chimes etc.) Order 1982

Annex E

Guidelines on the Suitability of Applicants

General Principles

The primary aim of this policy is public protection. To help in achieving that aim, the council will consider the suitability of applicants to be authorised as street traders. Street traders and their commercial activities are often subject to minimum levels of supervision. They interact closely with members of the public and it is important that the public, especially vulnerable people are protected from harm and from those who may harm them, where ever possible.

The Council will determine whether the applicant is a suitable person to carry on business as a street trader and may not issue a licence unless satisfied that the applicant is suitable, in determining this, the authority may have regard to any information, which it considers to be relevant, in particular:

- Whether the applicant has been convicted of any relevant offence;
- Whether the applicant has been the subject of any relevant enforcement action;
- Any previous refusal of an application for the issue or renewal of a street trading consent (and the reasons for the refusal);
- Any previous revocation of a street trading consent (and the reasons for the revocation)

For the purposes of this policy, relevant offences include unspent convictions and cautions, for offences involving dishonesty, the use and supply of controlled drugs, violence and offences of a sexual nature, which are less than 3 years old from the date of application, will be included in the consideration of whether the applicant is a suitable person to hold a licence.

A person with a conviction for a relevant offence will be expected to have remained free of conviction for a period of time, before an application is granted. Some discretion may be exercised if the offence is isolated, minor in nature and there are mitigating circumstances. However, the overriding consideration will always be the protection of the public.

Notwithstanding the above, the Council is aware of its duty not to restrict its discretion and it shall permit representations from the applicant explaining why it may nevertheless, be appropriate to receive consent.

Guidelines on the relevance of convictions

Each case will be decided on its own merits.

- (1) The Council will assess whether:
 - (a) an applicant for the grant or renewal of a street trading consent is a suitable person to hold or to continue to hold a street trading consent,
 - (b) a person who wishes to be registered as an assistant to a street trading consent holder or to continue to be registered as an assistant to a street

trading consent holder is a suitable person to be registered as an assistant to a street trading consent holder.

In making that assessment, the Council consider the previous convictions of such persons.

- (2) In considering the previous convictions of those persons mentioned in paragraph 1 the Council will consider the following:-
 - (a) whether the conviction is relevant;
 - (b) the seriousness of the offence;
 - (c) the length of time since the offence occurred;
 - (d) whether there is a pattern of offending behaviour;
 - (e) whether that person's circumstances have changed since the offence occurred;
 - (f) the circumstances surrounding the offence and the explanation offered by that person.
- (3) The following examples provide a general guide on the action to be taken where relevant convictions and cautions are evident

(a) Offences involving Violence

Applicant with convictions for offences involving violence will be considered carefully. Depending on the nature and seriousness of the offence, when applicants have convictions for causing grievous bodily harm, wounding, assault, or even more serious offences involving violence. In general, a period of three to ten years free of convictions should elapse before an application will be granted.

(b) Drug related offences

An isolated conviction for a drug offence, whether for unlawful possession only or involving the supply of controlled drugs, will not necessarily prevent an applicant from obtaining a street trading consent, provided the applicant has at least three years free of convictions.

An application will normally be refused where an applicant has more than one conviction for offences related to the possession of drugs and the last conviction or the date of release from jail, where a custodial sentence has been imposed, is less than 5 years before the date of the application.

(c) Sexual offences

Applicants with any unspent sexual related offences will not normally be granted a street trading consent.

(d) Dishonesty

The holders of a street trading consent and their assistants have to be persons who can be trusted. It is easy for a dishonest trader or assistant to take advantage of the public. Members of the public using a street trading outlet expect the holder and his assistant to be honest and trustworthy. For these reasons a serious view will be taken of any conviction involving dishonesty.

Convictions for isolated minor offences will not necessarily prevent an applicant from obtaining a street trading consent but in cases involving serious theft or fraud, at least three years should elapse before an application is granted. When offences of

dishonesty have been accompanied by violence, at least five years free of conviction should elapse before an application will be granted.

(e) Motoring Convictions

In most cases, motoring offences are unlikely to be relevant when deciding if an applicant for a street trading consent or to be registered as an assistant to the holder of a street trading consent is a suitable person. However, there may be instances where the offences are of a very serious nature. In those cases, an applicants would be expected to show a period of at least 3 years free of any such convictions from the date of conviction or the date of release from jail, where a custodial sentence has been imposed.

(f) Formal Cautions and fixed penalty notices.

For the purposes of these guidelines, the Council will treat Formal Cautions issued in accordance with Home Office guidance and fixed penalty notices as though they were a conviction before the courts.

In all cases, each individual application will be decided on its own merits.

Disclosure and Barring (DBS)

All application forms must be accompanied by an enhanced disclosure as the Council must be satisfied that he applicant is a suitable person.

If any unspent convictions or cautions are declared, depending on their nature, then the Council may as part of the application process hold a hearing to determine whether the applicant is a suitable person to hold a street trading consent. The application will not proceed until the suitability of the applicant has been determined.

TEWKESBURY BOROUGH COUNCIL

Report to:	Licensing Committee
Date of Meeting:	21 March 2019
Subject:	Gambling Act 2005: Statement of Principles
Report of:	Head of Community Services
Corporate Lead:	Deputy Chief Executive
Lead Member:	Lead Member for Clean and Green Environment
Number of Appendices:	One

<p>Executive Summary:</p> <p>It is a requirement of the Gambling Act 2005 that the Council publishes its Statement of Principles every three years. The current Statement of Principles 2016-19 was previously published on 31 January 2016 and now requires re-publishing.</p>
<p>Recommendation:</p> <p>To APPROVE the publishing of the Tewkesbury Borough Council Gambling Act 2005 Statement of Principles 2019-22.</p>
<p>Reasons for Recommendation:</p> <p>To ensure that the Council meets its obligations under the Gambling Act 2005 to publish a Statement of Principles.</p>

<p>Resource Implications:</p> <p>There are no significant resource implications arising from this report</p>
<p>Legal Implications:</p> <ol style="list-style-type: none"> 1. When introducing or changing a Policy, the Council must ensure that it complies with the relevant legislation. 2. The Council must ensure that any decision-making or delegation complies with its powers under the Council's Constitution. 3. Consideration should be given as to whether consultation should be undertaken locally with regard to the impact on stakeholders and local businesses with increasing these fees. 4. Should the Council seek to change or update fees, the Council has a legal duty to set fees on a cost recovery basis. Not setting a fee would have legal and cost implications for the Council; however, those fees will need to be recalculated and based on "reasonable anticipated costs" of the process.

Risk Management Implications:

None.

Performance Management Follow-up:

The Council has been working with Gloucestershire County Council to produce Local Area Profiles which will feed into the Statement of Principles. As such, a more detailed review of the Statement of Principles will take place later this year taking account of the revised Local Area Profiles. Once this review has been carried out a report will be brought back to Licensing Committee with further recommendations.

Environmental Implications:

None.

1.0 INTRODUCTION/BACKGROUND

1.1 Tewkesbury Borough Council is a licensing authority under the Gambling Act 2005 and therefore has responsibilities for the administration and enforcement of the Act within the borough of Tewkesbury. It is a requirement of the Act that a statement of the principles that governs how we exercise the functions under the Act is published every three years.

2.0 GAMBLING ACT 2005 STATEMENT OF PRINCIPLES

2.1 It is a requirement of the Gambling Act 2005 that the Council publishes its Statement of Principles every three years. The current Statement of Principles 2016-19 was previously published on 31 January 2016 and now requires re-publishing.

2.2 A revised version of the Statement of Principles is attached at Appendix 1. There have been no changes to this version other than the date of publication.

2.3 The Council has been working with Gloucestershire County Council to produce Local Area Profiles which will feed into the Statement of Principles. As such, a more detailed review of the Statement of Principles will take place later this year taking account of the revised Local Area Profiles.

3.0 OTHER OPTIONS CONSIDERED

3.1 N/A

4.0 CONSULTATION

4.1 As no significant changes have been made to the Statement of Principles it does not need to be consulted upon.

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 N/A

6.0 RELEVANT GOVERNMENT POLICIES

6.1 N/A

- 7.0 RESOURCE IMPLICATIONS (Human/Property)**
- 7.1 None
- 8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)**
- 8.1 None arising out of this report
- 9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)**
- 9.1 None arising out of this report
- 10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS**
- 10.1 None arising out of this report

Background Papers: None.

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Appendices: Appendix 1 – Statement of Principles 2019-22



GAMBLING ACT 2005

STATEMENT OF PRINCIPLES

2019 - 2022

**Tewkesbury Borough Council, Council Offices
Gloucester Road, Tewkesbury, Gloucestershire, GL20 5TT**

www.tewkesbury.gov.uk/licensing

Revised with effect from

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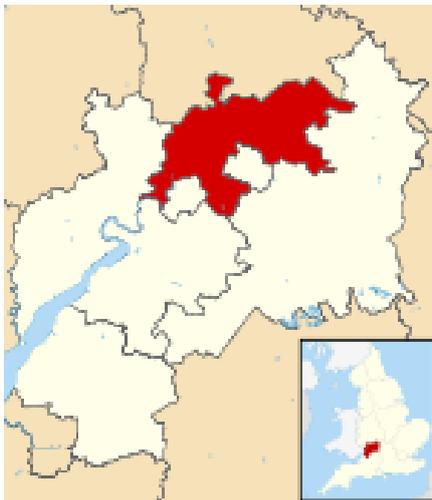
1.0 Introduction and local area profile

1.1 Tewkesbury Borough Council (the Council) is a licensing authority under the Gambling Act 2005 (the Act) and therefore has responsibilities for the administration and enforcement of the Act within the borough of Tewkesbury. We are required by the Act to publish a statement of the principles that governs how we exercise functions under the Act. This statement must be published at least every three years. The statement may be amended from time to time and any amended parts be consulted upon.

Tewkesbury Borough covers an area of 160 square miles in north Gloucestershire. The borough is situated within the Severn vale and stretches south beyond the outskirts of Cheltenham and Gloucester with borders alongside the county of Worcestershire to the north. It occupies the northern gateway into the south west region.

The borough is predominantly rural in nature with the largest towns / villages being Tewkesbury, Winchcombe, Bishop's Cleeve and Churchdown.

Gambling is not a significant industry or activity within the borough. Therefore, any new gambling proposal which seeks to intensify gambling activities will be very carefully considered and reviewed to ensure it does not significantly alter, adversely affect or otherwise impact upon the current level of gambling activity across the borough.



1.2 The Licensing Objectives

In exercising most of the functions under the Act, we must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are;

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way;
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

In making decisions about premises licences and temporary use notices, we will aim to permit the use of premises for gambling if they are;

- in accordance with any relevant code of practice issued by the Gambling Commission (“the Commission”) under section 24 of the Act;
- in accordance with any relevant guidance issued by the Commission under section 25 of the Act;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority’s statement of licensing policy.

1.3 In producing this statement, we have had regard to the licensing objectives, the Guidance to Licensing Authorities issued by the Commission¹, and any responses from those consulted with on the statement.

1.4 **Responsible Authorities**

Responsible authorities are identified in the legislation and have to be notified about licence applications to enable them to identify any risk.

We are required by statute to confirm the principles that we will apply in exercising our powers under section 157(h) of the Act to designate, in writing, a body which is competent to advise us about the protection of children from harm. These principles are;

- a) the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
- b) the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

In accordance with the suggestion in the Commission's Guidance to Licensing Authorities, we designate this to Gloucestershire County Council².

1.5 **Interested parties**

Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Act as follows;

"For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence, or to which the application is made, the person –

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraphs (a) or (b) above."

We are required by statute to state the principles we will apply to determine whether a person or a body is an interested party. These principles are;

- a) Each case will be decided upon its merits
- b) We will not apply a rigid rule to its decision making
- c) We will use the examples of considerations provided in the Commission's Guidance to Licensing Authorities.

Interested parties can be persons who are democratically elected such as councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils and councillors likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application.

¹ <http://www.gamblingcommission.gov.uk/Licensing-authorities/Information-for-licensing-authorities/Guidance-to-licensing-authorities-5th-edition.aspx>

² <http://www.gloucestershire.gov.uk/policy/children-families>

1.6 Exchange of Information

We are required to include in our statements the principles with respect to the exchange of information between us and the Commission, and the functions under section 350 of the Act with respect to the exchange of information between us and the other persons listed in Schedule 6 to the Act.

We will act in accordance with the provisions of the Act in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. We will also have regard to any guidance issued by the Commission to local authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act. Should any protocols be established as regards information exchange with other bodies then they will be made available.

1.7 Enforcement

We will carry out enforcement in accordance with the Council's Environmental Health and Licensing Enforcement Policy; having regard to the Regulator's Code as well as any future amendments to this policy.

1.8 Licensing Authority functions

Our main functions under the Act are to;

- a) be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- b) issue Provisional Statements
- c) regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- d) issue Club Machine Permits to Commercial Clubs
- e) grant permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres (FECs)
- f) receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- g) issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- h) register small society lotteries below prescribed thresholds
- i) issue prize gaming permits
- j) receive and endorse temporary use notices
- k) receive occasional use notices
- l) provide information to the Commission regarding details of licences issued (see section 1.6)
- m) maintain registers of the permits and licences that are issued under these functions.

We are not involved in licensing remote gambling; remote gambling is regulated by the Commission³.

2.0 Premises licences: consideration of applications

2.1 General Principles

Premises licences are subject to the requirements set out in the Act and accompanying regulations, as well as specific mandatory and default conditions which are detailed in the regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be necessary.

2.2 Decision making

In making decisions about premises licences, we shall consider;

- a) relevant code of practice issued by the Commission;
- b) relevant guidance issued by the Commission;
- c) the licensing objectives; and

³ <http://www.gamblingcommission.gov.uk/Gambling-sectors/Online/Remote.aspx>

d) our statement of licensing policy.

Moral or ethical objections to gambling are not a valid reason to reject applications for premises licences (except as regards any 'no casino resolution' - see section 2.14).

We will also follow the Commission's guidance on "appropriate licensing environment" (previously known as primary gambling activity) when making decisions on premises licences.

It is not permissible for an operator to offer gaming machines on a premises which is licensed for non-remote betting but not to offer sufficient facilities for non-remote betting. A non-remote betting operating licence authorises its holder to 'provide facilities for betting'⁴. Likewise, a betting premises licence authorises premises to be used for 'the provision of facilities for betting...'⁵. The ability to make up to four gaming machines, within categories B, C or D, available is an additional authorisation conferred upon the holder of a betting premises licence⁶; it is not a free standing right to make gaming machines available for use. It follows that unless a betting premises operator offers sufficient facilities for betting it should not be making gaming machines available on the premises in question.

It is also important in relation to the licensing objective of protecting vulnerable persons from being harmed or exploited by gambling, that customers should be offered a balanced mix of betting and gaming machines in licensed betting premises.

Accordingly, an operating licence condition provides that gaming machines may be made available for use in licensed betting premises only at times when there are also sufficient facilities for betting available. In this respect, such facilities must include information that enables customers to access details of events on which bets can be made, make such bets, learn of the outcome and collect any winnings.

2.3 Definition of "premises"

In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, we will pay particular attention if there are issues about sub-divisions of a single building or plot and ensure that mandatory conditions relating to access between premises are observed.

When determining applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes, we will consider;

- a) The protection of children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore, premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating.
- b) That entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not "drift" into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- c) That customers should be able to participate in the activity named on the premises licence.
- d) If the premises have a separate registration for business rates
- e) If any neighbouring premises owned by the same person or associates.
- f) If premises can be accessed from the street or a public passageway.
- g) If the premises only be accessed from any other gambling premises.

⁴ <http://www.legislation.gov.uk/ukpga/2005/19/section/65>

⁵ <http://www.legislation.gov.uk/ukpga/2005/19/section/150>

⁶ <http://www.legislation.gov.uk/ukpga/2005/19/section/172>

We will consider these and other relevant factors in making a decision, depending on all of the circumstances of the case. Relevant access provisions for each premises type is published in the Gambling Commission's Guidance.

2.4 Premises "ready for gambling"

A licence to use premises for gambling should only be issued in relation to premises that we are satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. If the construction of a premises is not yet complete, or if it needs alteration, or if the applicant does not yet have a right to occupy it, then an application for a provisional statement should be made instead.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, we will determine applications on their merits, applying a two stage consideration process;

- a) whether the premises ought to be permitted to be used for gambling, and then
- b) whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

Applicants should note that we are entitled to decide that it is appropriate to grant a licence subject to conditions, but we are not obliged to grant such a licence. More detailed examples of the circumstances in which such a licence may be granted can be found on the Gambling Commission's Guidance.

2.5 Location

We cannot consider demand issues with regard to the location of premises. We will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling and issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, we will update this statement.

2.6 Planning

In determining applications, we will not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. Once a premises licence comes into effect, it authorises premises to be used for gambling. Accordingly, a licence to use premises for gambling should only be issued in relation to premises that we can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

2.7 Duplication with other regulatory regimes

We seek to avoid any duplication with other statutory or regulatory systems where possible, including planning. When determining a licence application, we will not consider whether it is likely to be awarded planning permission, building regulations approval, or any other type of permit, grant or licence. We will however, listen to and consider carefully any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

When dealing with a premises licence application for finished buildings, we will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

2.8 Local Risk assessments

The Commission has introduced provisions in its social responsibility code within the Licence Conditions and Codes of Practice (LCCP), which require gambling operators to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to

have policies, procedures and control measures to mitigate those risks⁷. The introduction of new provisions in the social responsibility code within the LCCP encourages local authorities, the Commission and the industry to work in partnership to address local issues and concerns. These changes take effect from 6 April 2016.

Licensees must review (and update as necessary) their local risk assessments;

- a) to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;
- b) when there are significant changes at a licensed premises that may affect their mitigation of local risks;
- c) when applying for a variation of a premises licence; and in any case, undertake a local risk assessment when applying for a new premises licence.

Licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request.

It is expected that licensees will refer to the Licensing Authority's Local Area Profile when completing their risk assessments.

2.9 Licensing objectives

Premises licences granted must be consistent with the licensing objectives.

- a) **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.**

We will pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime we will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable, such as the provision of door supervisors. We will make the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

- b) **Ensuring that gambling is conducted in a fair and open way**

The Commission generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section below.

- c) **Protecting children and other vulnerable persons from being harmed or exploited by gambling**

We will consider whether specific measures are required at particular premises, with regard to this licensing objective. Necessary measures may include supervision of entrances/machines, segregation of areas etc. We will regard Commission codes of practice in relation to specific premises.

As regards the term "vulnerable persons", the Commission does not seek to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental health impairment, alcohol or drugs." We will consider this licensing objective on a case by case basis.

2.10 Conditions

Any conditions attached to licences will be proportionate and will be;

- a) relevant to the need to make the proposed building suitable as a gambling facility;
- b) directly related to the premises and the type of licence applied for;
- c) fairly and reasonably related to the scale and type of premises; and
- d) reasonable in all other respects.

⁷ <http://www.gamblingcommission.gov.uk/Publications-consultations/LCCP.aspx>

Decisions upon individual conditions will be made on a case by case basis, though there will be a number of measures we will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. We also expect the applicants to offer their own suggestions as to ways in which the licensing objectives can be met effectively.

We will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Commission's Guidance.

We will also ensure that where category C or above machines⁸ are on offer in premises to which children are admitted;

- a) all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- b) only adults are admitted to the area where these machines are located;
- c) access to the area where the machines are located is supervised;
- d) the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- e) at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

These considerations will apply to premises including buildings where multiple premises licences are applicable.

Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. We will consider the impact upon the licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

There are conditions which we cannot attach to premises licences, these are;

- a) any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- b) conditions relating to gaming machine categories, numbers, or method of operation;
- c) conditions which provide that membership of a club or body be required (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- d) conditions in relation to stakes, fees, winning or prizes.

2.11 Door Supervisors

If there are concerns that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then we may require that the entrances to the premises are controlled by a door supervisor, and we are entitled to impose a condition on the premises licence to this effect.

Where it is decided that supervision of entrances and/or machines is necessary for particular cases, a consideration of whether the door supervisors need to be Security Industry Authority (SIA) licensed or not, will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary.

⁸ <http://www.legislation.gov.uk/ukxi/2014/45/made>

2.12 **Betting premises**

The Act contains a single class of licence for betting premises although within this, there are different types of premises which require licensing.

The Act also permits betting intermediaries to operate from premises. Section 13 of the Act defines a betting intermediary as a person who provides a service designed to facilitate the making or acceptance of bets between others. Although betting intermediaries usually offer their services via remote communication, such as the internet, a betting intermediary can apply for a betting premises licence to offer intermediary services upon the premises, such as a premises based trading room.

We are responsible for issuing and monitoring premises licences for all betting premises.

a) **Self Service Betting Terminals (SSBTs)**

Section 235 (2)(c) provides that a machine is not a gaming machine if it is designed or adapted for use to bet on future real events. Some betting premises may make available machines that accept bets on live events, such as horse racing, as a substitute for placing a bet over the counter. These SSBTs are not gaming machines and therefore neither count towards the maximum permitted number of gaming machines, nor have to comply with any stake or prize limits. SSBTs merely automate the process that can be conducted in person and the Act exempts them from regulation as a gaming machine.

However, where a machine is made available to take bets on virtual races (that is, results and/or images generated by computer to resemble races or other events) that machine **is** a gaming machine and counts towards the maximum permitted number of gaming machines, and must meet the relevant category limitations for the premises.

Use of SSBTs is a form of remote communication and a remote licence will be required from the Commission if SSBTs are used to facilitate the making or accepting of bets by others.

Section 181 contains an express power for licensing authorities to restrict the number of SSBTs, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino).

2.13 **Adult Gaming Centres and (Licensed) Family Entertainment Centres**

We will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy us that there will be sufficient measures to address these matters.

We may consider measures to meet the licensing objectives such as;

- a) Proof of age schemes
- b) Closed-circuit television (CCTV)
- c) Supervision of entrances and/or machine areas
- d) Physical separation of areas
- e) Location of entry
- f) Notices and/or signage
- g) Specific opening hours
- h) Self-exclusion schemes
- i) Provision of information leaflets and/or helpline numbers for organisations such as GamCare⁹ and/or GambleAware¹⁰.
- j) Measures and/or training for staff on how to deal with suspected truant school children on the premises (for licensed FECs)

This list is neither mandatory nor exhaustive, and is merely indicative of example measures.

⁹ <http://www.gamcare.org.uk/>

¹⁰ <http://www.gambleaware.co.uk/>

We will refer to the Commission to see how any conditions that apply to operating licences covering the way in which the area containing the Category C machines should be delineated. We may keep a record of any mandatory or default conditions on these premises licences, when they have been published.

2.14 **Casinos**

There are no existing casino premises licences in force in the Borough.

On 17th April 2012 the Council resolved under section 166(1) of the Act, not to issue casino premises licences. This resolution took effect from 28th July 2012.

Should we decide in the future to pass such a resolution, we will update this policy statement with details of that resolution. Any such decision will be made at a meeting of the full Council.

2.15 **Bingo premises**

We will ensure that the premises is suitable for playing bingo when deciding on a premises application for bingo. From 13th July 2011 holders of bingo premises licences are also able to make available for use a number of Category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. A licence variation must be applied for if operators wish to take advantage of this change to the legislation.

Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if Category B or C machines are made available for use these must be separated from areas where children and young people are allowed. Social Responsibility code provision 3.2.5(3) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling.

2.16 **Tracks**

Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. We will consider the impact upon the licensing objectives and we will ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

We also expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. Children and young persons may be permitted to enter track areas where facilities for betting are provided on days when dog racing and/or horse racing takes place, but they are prevented from entering areas where gaming machines (other than Category D machines) are provided. We may also consider additional measures outlined in paragraph 2.13.

Gaming Machines: Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, they shall be located in areas from which children are excluded.

Betting machines: We will take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number, nature and circumstances of betting machines an operator proposes to offer.

2.17 **Applications and plans**

Section 51 of the Act requires applicants to submit plans of the premises with their application, in order to ensure that we have necessary information to make an informed judgement about whether the premises is fit for gambling. The plan will also be used to plan premises inspections.

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by the statutory regulations.

We are aware that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track.

We will not accept plans if they fail to provide sufficient information to enable us to assess an application.

2.18 **Travelling Fairs**

Travelling fairs may provide an unlimited number of Category D gaming machines provided that facilities for gambling amount to no more than an ancillary amusement at the fair. They do not require a permit to provide these gaming machines but must comply with legal requirements about how the machine operates. Current stakes and prizes can be found at Appendix B of the Commission guidance.

Higher stake Category B and C machines, like those typically played in arcades and pubs, are not permitted. Fairground operators must source their machines from a Commission licensed supplier and employees working with gaming machines must be at least 18 years old.

We are responsible for deciding whether, where Category D machines and/or equal chance prize gaming without a permit are to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

We will also consider whether the applicant falls within the statutory definition of a travelling fair and we will work with our neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

2.19 **Provisional Statements**

Developers may wish to apply to us for provisional statements before entering into a contract to buy or lease property or land, to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

Section 204 of the Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that are;

- a) expected to be constructed;
- b) expected to be altered; or
- c) expected that they will acquire a right to occupy.

The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

The holder of a provisional statement may then apply for a premises licence once the premises is constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless;

- a) they concern matters which could not have been addressed at the provisional statement stage; or
- b) they reflect a change in the applicant's circumstances.

We may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters;

- a) which could not have been raised by objectors at the provisional statement stage;
- b) which in the authority's opinion reflect a change in the operator's circumstances; or;
- c) where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

2.20 **Reviews**

Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for us to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below;

- a) in accordance with any relevant code of practice issued by the Commission;
- b) in accordance with any relevant guidance issued by the Commission;
- c) reasonably consistent with the licensing objectives; and
- d) in accordance with the authority's statement of licensing policy.

The request for the review will also be subject to the consideration as to whether the request is frivolous or vexatious.

We can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which is necessary to uphold the licensing objectives.

Once we receive a valid application for a review, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after we receive the application, we will also publish notice of the application within that period.

We will carry out the review as soon as possible after the 28 day period for making representations has passed.

The purpose of the review will be to determine whether we should take any action in relation to the licence. If action is justified, we may;

- a) add, remove or amend a licence condition imposed by the licensing authority;
- b) exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
- c) suspend the premises licence for a period not exceeding three months; or
- d) revoke the premises licence.

In determining what action, if any, should be taken following a review, we will have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

We may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

Once the review has been completed, we will notify our decision to;

- a) the licence holder
- b) the applicant for review (if any)
- c) the Commission
- d) any person who made representations
- e) the chief officer of police or chief constable; and
- f) Her Majesty's Commissioners for Revenue and Customs

3.0 Permits, notices and registrations

3.1 Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits)

Where a premises does not benefit from a premises licence but the operators wish to provide gaming machines, they may apply to us for this permit. The applicant must demonstrate that the premises will be wholly or mainly used for making gaming machines available for use.

3.2 We expect the applicants to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits; however, they may include measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises.

We also expect that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

3.3 (Alcohol) Licensed premises gaming machines

a) Automatic entitlement: 2 machines

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.

We can remove the automatic authorisation in respect of any particular premises if;

- i. Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- ii. Gaming has taken place on the premises that breaches a condition of section 282 of the Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Commission about the location and operation of the machine has been complied with);
- iii. The premises are mainly used for gaming; or
- iv. An offence under the Act has been committed on the premises.

b) Permit: 3 or more machines

If a premises wishes to have more than 2 machines, then it needs to apply for a permit. We will consider such applications based upon the licensing objectives, any guidance issued by the Commission issued under Section 25 of the Act, and any other relevant matters. Such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling, and will expect the applicant to satisfy that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Applicants are expected to demonstrate that these machines will be in sight of the bar or in the sight of staff that will monitor the machines. Notices and signage showing age restrictions for these machines may also be displayed. As regards the protection of vulnerable persons, applicants are expected to provide information leaflets and helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an adult gaming centre premises licence.

We may decide to grant the application with a smaller number of machines and/or a different category of machine than that applied for, if it is necessary to uphold the licensing objectives.

Holders of such permits must comply with any Code of Practice issued by the Commission about the location and operation of the machine.

3.4 **Prize Gaming Permits**

Gaming is “prize gaming” if the nature of the prize is not determined by the number of people playing or the amount paid for or raised by gaming. A prize gaming permit can be issued by us to authorise the provision of prize gaming on a commercial basis on specified premises.

Applicants should set out the types of gaming that they intend to offer. Applicants should be able to demonstrate;

- a) That they understand the limits to stakes and prizes that are set out in the Gambling Act Regulations 2007.
- b) That the gaming offered is within the law.
- c) Clear policies that outline the steps to be taken to protect children from harm.

In making its decision on an application for this permit, we will have regard to Commission guidance.

We cannot attach conditions but there are conditions in the Act which the permit holder must comply. These conditions are;

- a) The limits on participation fees, as set out in the statutory regulations, must be complied with.
- b) All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played.
- c) The prize for which the game is played must not exceed the amount set out in the Gambling Act Regulations 2007 (if a money prize), or the prescribed value (if non-monetary prize).
- d) Participation in the gaming must not entitle the player to take part in any other gambling.

3.5 **Club Gaming and Club Machines Permits**

Members clubs and miners’ welfare institutes (but not commercial clubs) may apply for a club gaming permit. A club gaming permit enables the premises to provide gaming machines in accordance with the relevant regulations, equal chance gaming and games of chance as set-out in the relevant regulations.

Members clubs, miners’ welfare institutes and commercial clubs may apply for a club machine permit. A club machine permit enables the premises to provide gaming machines in accordance with the relevant statutory regulations.

Members clubs must have at least 25 members and be established and conducted wholly or mainly for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gambling Act 1968. A members’ club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men’s clubs, branches of Royal British Legion and clubs with political affiliations.

We may refuse an application on the grounds that;

- a) for a club gaming permit: the applicant is not a members’ club or miners’ welfare institute
- b) for a club machine permit: the applicant is not a members’ club, miners’ welfare institute or commercial club
- c) the premises are used by children or young persons
- d) an offence or a breach of a condition of the permit has been committed by an applicant
- e) a permit held by an applicant has been cancelled during the last ten years
- f) an objection has been made by the Commission or local chief officer of police.

There is also a ‘fast-track’ procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10).

Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which we can refuse a permit are reduced.

We may refuse an application on the following grounds;

- a) the club is established primarily for gaming, other than gaming prescribed under schedule 12.
- b) in addition to the prescribed gaming, the applicant provides facilities for other gaming.
- c) a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

There are statutory conditions on club gaming permits and club machine permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

3.6 **Temporary Use Notices**

Temporary use notices (TUNs) allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a TUN would include hotels, conference centres and sporting venues.

We can only grant a TUN to a person or a company holding a relevant operating licence, i.e. a non-remote casino operating licence.

The Secretary of State has the power to determine what form of gambling can be authorised by TUNs, and at the time of writing this statement the relevant regulations state that TUNs can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means events such as poker tournaments.

There are a number of statutory limits as regards TUNs. We will also consider amongst other things, the ownership, occupation and control of the premises.

We may object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Commission's guidance to licensing authorities.

3.7 **Occasional Use Notices**

We have very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. We will however, consider the definition of a 'track' and whether the applicant is permitted to avail themselves of the notice.

We will share information with the Commission in respect of occasional use notices served in respect of tracks in our area.

3.8 **Registration of Small Society Lotteries**

All lotteries are unlawful unless they are run in accordance with an operating licence issued by the Commission or it is an "exempt" lottery as defined by the Act.

One of those exemptions is in respect of what are termed "small society lotteries" and the council is responsible for registering these "small" lotteries.

A society will be allowed to register with us if it is a 'non-commercial lottery', in other words, it is established and conducted;

- a) for charitable purposes.
- b) for the purpose of enabling participation in, or of supporting, sport, athletic or cultural activity.
- c) for any other non-commercial purpose other than private gain.

We will maintain a register of small society lotteries.

4.0 Committee decisions and scheme of delegation

We are involved in a wide range of licensing decisions and functions and have established a licensing committee to administer them.

Licensing sub-committees made up of three councillors from the main licensing committee will sit to hear applications where representations have been received from interested parties and responsible authorities.

Where a councillor who is a member of the licensing committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision making process affecting the licence in question.

Officers will deal with all other licensing applications where either no representation have been received, or where representations have been received and it is decided that a hearing is not necessary.

Decisions as to whether representations are irrelevant, frivolous or vexatious will generally be made by the officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the licensing committee or sub-committee. Where representations are taken no further, the person or organisation making that representation will be given written reasons for doing so. There is no right of appeal against a determination that representations will not be heard.

The table shown below sets out the agreed delegation of decisions and functions to licensing committee, sub-committee and officers.

This form of delegation is without prejudice to officers referring an application to a sub-committee or full committee if considered appropriate in the circumstances of any particular case.

4.1 Table of delegations of licensing functions

	Full Council	Licensing Sub-Committee (Licensing Panel)	Officers
Licensing Policy	✓		
Policy not to issue casino premises licences	✓		
Fee setting – when appropriate			✓ To be approved by the Licensing Committee
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received or have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received or have been withdrawn
Application for the transfer of a licence		Where representations have been received from the Commission	Where no representations have been received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Request to review a premises			✓

licence			(in consultation with the Council Solicitor)
Review of a premises licence		✓	
Application for club gaming / club machine permits		Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Cancellation of club gaming/club machine permits		✓	
Applications for other permits			✓
Cancellation of licensed prize gaming machine permits			✓
Consideration of temporary use notice			✓
Decision to give a counter notice to a temporary use notice			✓

TEWKESBURY BOROUGH COUNCIL

Report to:	Licensing Committee
Date of Meeting:	21 March 2019
Subject:	Licensing General Update
Report of:	Head of Community Services
Corporate Lead:	Deputy Chief Executive
Lead Member:	Lead Member for Clean and Green Environment
Number of Appendices:	None

<p>Executive Summary:</p> <p>This report provides an update to Members in respect of the significant changes to Houses in Multiple Occupation (HMO) licensing and the Animal Welfare Regulations 2018 which came into effect on 1 October 2018.</p>
<p>Recommendation:</p> <p>To CONSIDER the updates in respect of:</p> <ul style="list-style-type: none"> i. Changes to the Houses in Multiple Occupation Regulatory Regime; and ii. Implementation of the Animal Welfare Regulations 2018.
<p>Reasons for Recommendation:</p> <p>To update Members in relation to the significant changes to Houses in Multiple Occupation licensing and the Animal Welfare Regulations 2018 which came into effect on 1 October 2018.</p>

<p>Resource Implications:</p> <p>There are no significant resource implications arising from this report</p>
<p>Legal Implications:</p> <ol style="list-style-type: none"> 1. The Council has a legal duty to set fees on a cost recovery basis. Not setting a fee would have legal and cost implications for the Council; however, those fees will need to be recalculated and based on “reasonable anticipated costs” of the process. 2. The Council must ensure that any decision-making or delegation complies with its powers under the Council’s Constitution.
<p>Risk Management Implications:</p> <p>None.</p>

Performance Management Follow-up:

A further update will be provided at the Licensing Committee on 13 June 2019.

Environmental Implications:

None.

1.0 INTRODUCTION/BACKGROUND

1.1 At its meeting on 18 October 2018, the Licensing Committee received an update in respect of recent changes to licensing legislation that is likely to have a significant impact upon the Council.

1.2 This report provides a further update on the impact of the changes to the regulation of Houses in Multiple Occupation (HMO) and the introduction of the Animal Welfare Regulations 2018.

2.0 HOUSE IN MULTIPLE OCCUPATION (HMO)

2.1 As advised at the Licensing Committee on 18 October 2018, there has been a tightening of the regulation of HMOs. The previous licensing requirement for HMOs only applied to properties of three stories or more. As of 1 October, the licensing requirement applies to properties of that are two stories high or above with at least five tenants that form more than one household. At the previous Licensing Committee it was advised that, based on discussions at County level, it was estimated that there could potentially be around 100 additional HMOs within Tewkesbury Borough.

2.2 Nine landlords initially contacted the Council to apply to be an HMO under the new regime. Of these, only one has completed the application form and paid the relevant fee. This application is currently being processed. The status of the remaining eight is as follows:

- Two are obtaining the appropriate documentation to be submitted with the application. An Officer has visited these two sites to provide advice on the relevant documentation.
- One HMO has been confirmed as a registered charity and is therefore exempt from the licensing regime.
- One landlord has advised that the property is up for sale and not currently being used as an HMO. An Officer will visit the property to verify this claim.
- One landlord has advised that building works are being carried out and, as a result, at this moment there are only four tenants in the property; however, the number of tenants could increase on completion of the works. An Officer will monitor the situation at this property.
- One landlord has requested an Officer visit to confirm that they fall within the definition of a licensable HMO. An Officer is due to visit this property and provide the relevant advice.
- One landlord has advised that they no longer use the property as an HMO. An Officer will visit to verify this is the case.
- Despite a number of reminders, one landlord has failed to return the application form or contact the Council. An Officer is currently investigating this situation and will take any appropriate action.

2.3 As advised in the previous update it was originally anticipated that there could be up to 100 new HMOs across the borough; however, only a fraction of landlords have contacted the Council to request they be licensed. Discussions with neighbouring authorities have indicated that they are experiencing a similar pattern. In order to try to identify any licensable HMOs across the borough it is intended to run a targeted campaign in the first quarter of 2019/20. The campaign will seek to publicise the need for qualifying HMO's to be licensed and the consequences of not being licensed. During this campaign, Officers will seek to use all available data to try to identify licensable HMOs; should Members have any information that may help identify potentially licensable HMOs, they should forward this information to the Environmental Health Team who will investigate.

2.4 Members should also be aware that, on 4 February 2019, a successful prosecution was brought against an HMO landlord. The landlord pleaded guilty at Cheltenham Magistrates Court to four charges. These were:

- Failing to license the premises as a HMO under the Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006.
- Offences under the Management of Houses in Multiple Occupation (England) Regulations 2006 for failing to ensure adequate firefighting equipment and alarms, failing to inspect electrical installations, and failing to supply a supply of hot water to the premises.
- Failing to comply with the improvement notice under section 30 of the Housing Act 2004.
- Failing to comply with 3 of the prohibition notices under section 32 of the Housing Act 2004

The landlord was fined £6,000 which was reduced to £4,200 due to his early guilty plea. This equates to £600 per offence. He was also ordered to pay a £60 victim surcharge and costs of £1,500. As part of the Council's strategy to publicise the requirement of HMOs to be licensed, and the consequences of not being licensed, this case was heavily publicised across social media and through a full article with pictures which appeared in the Gloucestershire Echo.

3.0 ANIMAL WELFARE REGULATIONS 2018

3.1 The Animal Welfare Regulations 2018 came into force on 1 October 2018. These regulations have the potential to significantly increase the number of animal activities that are licensed.

3.2 Since the last update to Licensing Committee on 18 October 2018, the Council has received 42 applications for licensable animal activities, of these 25 have been licensed. inspections have been programmed in for the remaining 17 with a view to having all activities licensed by 1 April 2019.

3.3 Now that a number of inspections have been carried out, Members should be aware that the inspection and processing of applications is significantly more time consuming than the previous regime. Where an inspection and issuing of a licence may have taken between two to three hours previously, on average inspections and issuing of a licence under the new regime for an equivalent animal activity is proving to be on average six to seven hours of Officer time.

3.4 Members should also be aware that there is a requirement to inspect a broader range of animal activities with a vet. Therefore, the inspection regime is, to a certain degree, subject to the availability of a suitably qualified vet.

- 4.0 OTHER OPTIONS CONSIDERED**
- 4.1 N/A
- 5.0 CONSULTATION**
- 5.1 N/A
- 6.0 RELEVANT COUNCIL POLICIES/STRATEGIES**
- 6.1 N/A
- 7.0 RELEVANT GOVERNMENT POLICIES**
- 7.1 N/A
- 8.0 RESOURCE IMPLICATIONS (Human/Property)**
- 8.1 None
- 9.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)**
- 9.1 None arising out of this report
- 10.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)**
- 10.1 None arising out of this report
- 11.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS**
- 11.1 None arising out of this report

Background Papers: None.

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Appendices: None

TEWKESBURY BOROUGH COUNCIL

Report to:	Licensing Committee
Date of Meeting:	21 March 2019
Subject:	Licensing Audit Action Plan
Report of:	Head of Community Services
Corporate Lead:	Deputy Chief Executive
Lead Member:	Lead Member for Clean and Green Environment
Number of Appendices:	One

<p>Executive Summary:</p> <p>This report provides an update on the progress made against the actions arising from the internal audit of the licensing function, carried out in October 2017.</p>
<p>Recommendation:</p> <p>To CONSIDER progress made against the Licensing Audit Action Plan.</p>
<p>Reasons for Recommendation:</p> <p>To update Members on progress.</p>

<p>Resource Implications:</p> <p>There are no significant resource implications arising from this report</p>
<p>Legal Implications:</p> <p>There are no significant legal issues arising from this report.</p>
<p>Risk Management Implications:</p> <p>The actions relate to general procedural improvements that, when implemented, would reduce risk.</p>
<p>Performance Management Follow-up:</p> <p>Progress against the Action Plan will be reported at subsequent Licensing Committees.</p>
<p>Environmental Implications:</p> <p>None.</p>

1.0 INTRODUCTION/BACKGROUND

1.1 In October 2017, an internal audit of the Council's licensing function was carried out. The internal audit report made a number of recommendations and an action plan was subsequently put in place to deliver these recommendations.

2.0 PROGRESS AGAINST THE LICENSING AUDIT ACTION PLAN

2.1 The Licensing Audit Action Plan is attached as Appendix 1 and sets out progress to date.

2.2 Whilst the majority of actions have been completed, there are two actions that require further work as follows:

- **Cost recovery of fees associated with animal boarding establishments -** Since the original audit was carried out in October 2017, the Animal Welfare Regulations have come into force. These regulations introduce a new inspection and rating regime and a new charging scheme is currently being developed as a result.
- **Requirement to carry out inspections of licensed premises and introduce risk rating to these premises:** It had been the intention to incorporate the risk rating visits into the food inspection program; however, two of the Officers that were qualified to carry out food inspections left the Council meaning that agency staff had to be used to ensure that the food inspection program was achieved - it is not possible to use the agency officers to carry out licensing inspections. The Senior Licensing Officer has now taken up his post and has been tasked with working with the Principal Environmental Health Officer to incorporate the licensing risk rating inspections into the 2019/20 food inspection program.

3.0 OTHER OPTIONS CONSIDERED

3.1 N/A

4.0 CONSULTATION

4.1 N/A

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 N/A

6.0 RELEVANT GOVERNMENT POLICIES

6.1 N/A

7.0 RESOURCE IMPLICATIONS (Human/Property)

7.1 None

8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

8.1 None arising out of this report.

9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

9.1 None arising out of this report.

10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

10.1 None arising out of this report.

Background Papers: None

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Appendices: Appendix 1 – Licensing Audit Action Plan

Licensing Audit Action Plan

No	Recommendation/ Action	Responsible Officer	Target Date	Status	Progress To Date
1	<u>Licensing Act in General</u>				
1.1	Copies of licences issued should be retained	Environmental Health Manager	April 2018	✓	Copies of all licences are ldoxed and attached to the Uniform record.
	<u>Premises Licences</u>				
1.2	A review of current premises licences and debtors should be undertaken to ensure that all annual payments have been raised	Environmental Health Manager	April 2018	✓	A debtors report is sent from Finance to Tech Admin every Friday - Tech Admin check who has paid and who has not. Those that have not paid are contacted and the debt chased up. Where the debt is not paid licence is suspended.
1.3	The debtor report issued to licences should be issued at least 28 days prior to the debt invoice being raised; amendments to this report by licences should be undertaken promptly and reported back with the relevant licence application reference within this timescale.	Environmental Health Manager	April 2018	✓	For premises licences, fees that are not paid will result in licences being suspended.

No	Recommendation/ Action	Responsible Officer	Target Date	Status	Progress To Date
1.4	Debtors invoices (included annual invoices) raised in connection with licences should clearly demonstrate the licence application reference.	Environmental Health Manager	April 2018	✓	Invoices contain reference number.
<u>Personal Licences</u>					
1.5	A review of personal licence information of the councils website should be undertaken to ensure that it is up to date with current practices and additional information is provided in relation to notifiable offences.	Environmental Health Manager	April 2018	✓	Council's website has been updated.
<u>Temporary Event Notices</u>					
1.6	The website and online forms should be updated to provide definition on what is a premises user.	Environmental Health Manager	April 2018	✓	Council's website has been updated.

No	Recommendation/ Action	Responsible Officer	Target Date	Status	Progress To Date
1.7	A process should be established to monitor the number of events operated by a premises user. In this connection the Temporary Events Notices submitted via Cotswolds Markets should be reviewed in order to ensure compliance with this requirement.	Environmental Health Manager	April 2018	✓	Instruction given relating to entering information onto Uniform correctly. If information is entered correctly then Uniform automatically highlights the number of Temporary Events that relate to particular individual.
2.1	A proximity check should be demonstrated for street traders operating close to prime site.	Environmental Health Manager	January 2018	✓	All street trading applications checked against prime sites when received.
3.1	The six monthly LOLER certificates need to be provided to the Council on a regular basis.	Environmental Health Manager	April 2018	✓	It was agreed to include the LOLER requirement in the revised Taxi Licensing Policy. This has been included as a requirement in the revised draft Policy which is due to go to Licensing Committee on 21 March 2019.

No	Recommendation/ Action	Responsible Officer	Target Date	Status	Progress To Date
3.2	The safeguarding policy requirements should be implemented (see safeguarding audit 2016/17).	Environmental Health Manager	April 2018	☺	Safeguarding Training Courses for Taxi Drivers were run in March/April and November/December 2019. All Taxi Drivers should now have received Safeguarding Training in accordance with the Taxi Licensing Policy. An Audit will be carried out in March 2019 to identify any Taxi drivers who did not attend the training. It is a requirement of the revised Taxi Licensing Policy that any new/renewal applications are accompanied by an up to date certificate confirming safeguarding training.
3.3	Payments receipted should be at the current fee rate.	Environmental Health Manager	April 2018	✓	All payments are at current rates. A review of taxi fees is currently ongoing to ensure full cost recovery. This will be completed by the end of November.
4.1	The website information should be updated to provide details on the home visits undertaken by the Environmental Health Officers and the change in the veterinary procedures.	Environmental Health Manager	September 2018	✓	Website has been updated

No	Recommendation/ Action	Responsible Officer	Target Date	Status	Progress To Date
4.2	To update the home visit check sheet to include confirmation of the number of units to ensure the correct fee has been received.	Environmental Health Manager	September 2018	✓	The home visit check sheet will be updated to reflect this.
4.3	To check that all animal licences are renewed at the beginning of each year and undertake the appropriate enforcement action for non-renewals.	Environmental Health Manager	September 2018	✓	Animal licences that are not renewed are contacted to establish if they are still operating. Where they are, then fees chased and advised of enforcement action where continue to operate without licence.
4.4	A review of the fees to ensure full cost of the service including the home visits has been taken into consideration.	Environmental Health Manager	September 2018	😊	New animal welfare regulations came into force in October 2018. The new regime represented a significant change to the existing licensing regime and revised guidance has been released over the last four months. A revised charging scheme is currently being prepared with a view to being in place in April 2019.

No	Recommendation/ Action	Responsible Officer	Target Date	Status	Progress To Date
5.1	<p>The receipt date of the application for all licence types should be correctly reflected within the Uniform system.</p> <p>All consultees should be listed for each licence type.</p> <p>In respect of animal boarding, visit dates and Officer details should be recorded within Uniform.</p>	Environmental Health Manager	January 2018	✓	Instruction has been given regarding the correct input of data onto uniform. Random checking is carried out by Environmental Health Manager and Principle Environmental Health Officer.
5.2	Outstanding balances should be reviewed to ensure that these are not error entry lines	Environmental Health Manager	January 2018	✓	All outstanding balances have been reviewed. Any balances that accumulate in this financial period will be pursued and the licence suspended where payment not received.
5.3	The trading times of a Street trader should be correctly entered into Uniform.	Environmental Health Manager	January 2018	✓	All street trader entries on Uniform have been reviewed and reflect trading times.

No	Recommendation/ Action	Responsible Officer	Target Date	Status	Progress To Date
6	A staged approach will be adopted to the reconciliation process. Initially annual licence's will be checked against the general ledger and then further licences will be added once the format of the reconciliation process and Officers' understanding of the general ledger have been established.	Environmental Health Manager	April 2018	✓	Officers have now been given training and access to the general ledger and can now input directly onto it.
7	A programme of inspections for licenced premises will be carried out in the 2018 calendar year. Based on the inspections, a risk assessment will then be performed and entered into the uniform system.	Environmental Health Manager	April 2019	☹	Due to reduced resources throughout this year, it has not been possible to begin the programme of inspections. A new Senior Licensing Officer started on 4 March 2019. The Senior licensing Officer will work with the Principal Environmental Health Officer to incorporate the risk assessments into 2019/20 Food Inspection Program.

No	Recommendation/ Action	Responsible Officer	Target Date	Status	Progress To Date
8	Service requests such as noise complaints that can be associated with a licenced premises should be dealt with through the licencing module.	Environmental Health Manager	April 2018	✓	<p>All service requests relating to licensed premises are attached to that premises through the service request module or logged on as standard service requests. When risk assessments are carried out, history of complaints will be readily available to be considered when scoring. The risk scoring will be on the licencing module. It is useful to log noise complaints onto Uniform under the service requests module as this allows noise complaints to be broken down using existing codes. To add these complaints to the licensing module is to add another procedure for no real benefit.</p> <p>A random sample of licensed premises will be audited to confirm that complaints are registered against them and this information is readily available for risk assessing.</p>
9	An online facility for the public to report licensable complaints should be provided.	Environmental Health Manager	June 2018	✓	Website has been updated in order that licensed premises can be report through "Report It".

STATUS KEY

😊	Action is progressing well and on target to achieve completion date/within agreed budget (if applicable) etc.
😐	Action has some issues or delays but is likely to achieve completion date/within agreed budget (if applicable) etc.
😞	Significant risk to not achieving the action or there has been significant slippage in the timetable.
✓	Action is complete.
	Action not yet commenced. (may not yet be programmed for action)